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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

January 7, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

- SF
R52
#1
- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- A. 2380 California St., #401 [G36-25(A)]
- B. 700 O'Farrell St., #406 [G36-27(A)]
- C. 1111-113 Green St. [G36-26(A)]
- D. 692 Hayes St. and 706 Buchanan St. [G36-13(A) continued from December 17, 1985]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business
- IX. New Business
- X. Appeal Hearing
- :30 p.m. 1. 250 Taylor St., #66 [G36-6(A) first cons. 10/15/85]
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 7, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

52 I. Call to Order

President Chinchilla called the meeting to order at 5:34 p.m.

2 /86 II. Roll Call

Commissioners Present: Alviar, Chinchilla, Payne, Waller
 Commissioners not Present: Chan, Jackson, Marshall
 Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 5:37 p.m.
 Commissioner Curran appeared on the record at 5:41 p.m.
 Commissioner Payne went off the record at 6:38 p.m. and
 Commissioner Curran went off the record at 7:28 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 17, 1985
 as written. (Alviar/Waller: 4-0).

IV. Consideration of Appeals

A. 2380 California St. #401 [G36-25(A)]

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 Landlord appealed Hearing Officer's award of \$50 per month for loss of a parking space where he had traditionally parked either two motorcycles or one of his cars. In June 1985 owner assigned another parking space to tenant, which tenant maintained was barely accessible enough for one of his motorcycles and cannot accommodate any of his cars. Hearing Officer awarded \$50 to reflect the market value of the space; tenant's total rent payment had allowed \$20 to cover the garage space. Owner maintained that tenant was using the newly-assigned space and that a \$50 award was excessive.

MSC: To remand the case to the Hearing Officer with instructions to award a \$20 decrease for the period of time tenant had any use of the garage space and \$50 as of the time tenant vacated the space. The reduction shall be discontinued if a space is offered comparable to the one used before June 29, 1985.
 (Waller/Alviar: 4-1)

B. 700 O'Farrell St. #406 [G36-27(A)]

Tenant appealed Hearing Officer's decision awarding approximately \$60 for partial loss of use of his stove for 1

1/2 months and total loss of 2 1/2 months. Tenant felt he should receive a higher award since this amount did not cover the costs of eating in restaurants, bus fare, and general inconvenience, as well as reflect accurately the value of a stove in a studio apartment.

MSC: To uphold the Hearing Officer and deny the appeal. (Alviar/Payne: 4-1; Waller dissenting).

C. 1111-1131 Green St.

Landowner appealed the determination of the Hearing Officer concerning a capital improvement pass-through and tenants' petitions for decreases in service. Hearing Officer has divided the improvement costs by 14 units, counting the large penthouse as two units; owner objected. Landlord also protested the award of \$20 per month to three tenants for loss of storage space. He contended that only one tenant had been given approval for and used the storage area. Four tenants wrote in support of Hearing Officer's ruling.

MSC 1. To deny the appeal on the issue of the number of units;

2. To remand the storage issue to the same Hearing Officer to consider the allegations in the owner's appeal statement and to make specific findings on this matter.
(Carrico/Payne: 5-0).

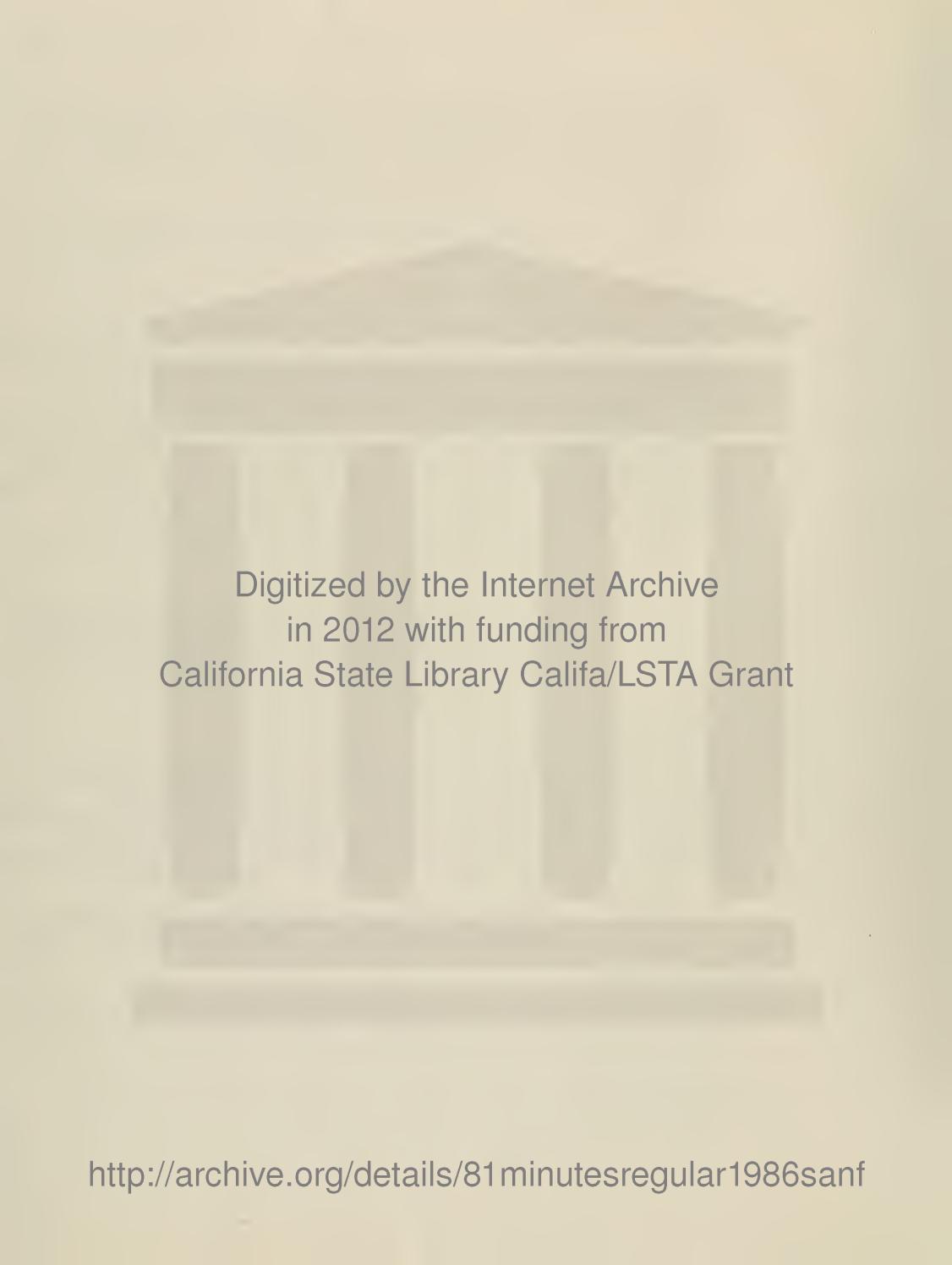
D. 692 Hayes/706 Buchanan St. [G36-14(A)]

Tenants appealed the ruling of Hearing Officer allowing owner a capital improvement pass-through with some subtractions and modifications. Tenants believed they could not get any other increases for a year since they had received an annual increase in October, and they objected to the pass-throughs since they had many repair needs.

MSC: To deny the appeal and uphold the Hearing Officer's decision. (Alviar/Carrico: 5-0).

V. Communications

- A. The board was given letters from four tenants involved in the 1111-1133 Green St. appeal.
- B. Rent Board counseling statistics for December 1985 were distributed.
- C. The appeal decision for 3734 Broderick St., #2 was approved.

A faint, out-of-focus background image of a classical building with four prominent columns, possibly a Greek or Roman temple, centered in the frame.

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- D. Further appeal materials for 2380 California St., #401 were submitted by the tenant.
- E. The owner for 700 O'Farrell St., #406 sent an appeal statement.
- F. The Mayor wrote the Commissioners to review the MBO performance report for 1984-1985. She congratulated the Board and office staff for exceeding all but one of the stated objectives.
- G. A copy of a Small Claims Court action filed by two landlords was received.
- H. A request for an extension in filing appeal papers was requested by the attorney for the owner at 2090 Broadway St. The extension was granted.
- I. Old St. Mary's Housing Committee invited the Commissioners to speak at their monthly meeting February 5, 1986.

VI. Director's Report

- A. Executive Director Ricardo Hernandez informed the Commissioners that the new Deputy Director, Ms. Barbara O'Hearn, began at that position January 7, 1986.
- B. Mr. Hernandez was pleased to announce Ms. Mamie How has been appointed as the new alternate landlord Commissioner, alternate to Commissioner Carrico.
- C. The Commissioners were reminded that they must elect new officers soon. February 4, 1986 was chosen.

VII. Appeal Hearing

1. 250 Taylor St., #66 [G36-6(A)]

A hearing before the Commissioners was set for 6:30 p.m. and began at 6:42 p.m. Appearing were landlord-appellant Robert Imhoff and representative Paul Wartelle, appearing for tenant Richard Rouleau.

Landlord had appealed Hearing Officer's ruling on remand pursuant to the order of the Superior Court. Owner had refrained from imposing a 7 percent annual rent increase on the tenant's November 1983 anniversary date. In March 1984, landlord sent notice for a 7 percent increase effective May 1984. Previous Hearing Officer ruled that landlord could either impose the 7 percent amount in November 1984 as a banked amount or receive the current 4 percent in effect for the May 1984 increase. The Superior Court remanded the case

on the basis that nothing in the Ordinance and Rules authorized more than one anniversary date for a given tenant continuing to occupy one unit. On remand the current Hearing Officer determined that a May 1984 increase entitled the owner to a maximum 4 percent and established a new anniversary date; or a November increase would allow a 7 percent banked amount as described in the previous decision. On appeal landlord argued that the decision on remand reinstated the position already rejected by the Superior Court.

Hearing Before the Commissioners

Through oral testimony, both sides stated their positions on this case and interpretation of the Judge's order. It was the tenant's basic position that the owner could impose an annual increase only on the tenant's anniversary date, pursuant to Ordinance Section 37.10(a). This would result in the owner's either noticing the increase on the anniversary date or waiting twelve months and imposing a banked amount on the subsequent anniversary date. In opposition, the landlord argued that this case did not present a banking situation. Rather, he maintained, the situation was one of a deferred increase, which the owner was entitled to impose after the anniversary date had passed, instead of waiting until the next anniversary date to assess a banked increase.

The hearing was concluded at 6:58 p.m. After discussion among the Commissioners, it was requested that Deputy City Attorney Pennypacker be asked to speak to the Board to clarify the mandate of the Superior Court ruling.

VIII. Consideration of Allegations of Wrongful Eviction

Case Summaries:

1. 722 Naples [G142-13(E)]

This tenancy of this house began November 1982 at a rent of \$500.00 per month, pursuant to an oral rental agreement with no deposits required. In mid-June 1985, owner's son approached tenant and requested that she sign a detailed written rental agreement and pay a cleaning and security deposit. Tenant refused to sign. In late June 1985, the owner presented another proposal which eliminated the cleaning deposit but required a \$500 security deposit and 1% rent increase. Tenants did not accept this proposal.

On July 2, 1985, owner's son wrote tenants documenting the above and informing them that they would have to move since

they would not agree to the owner's terms. No advice clause was included. On October 12, 1985, owner had delivered to tenants a 30-day notice of eviction for owner-occupancy. No advice clause was included.

Pursuant to tenant's eviction petition and landlord's response, the Eviction Unit sent landlord two letters detailing at length the banking provision and advising owner of the invalidity of the notices, the inability to evict for refusal to pay security deposits, and the retaliatory flavor of the case. During a visit to the Rent Board in early November, the owner informed the Eviction Unit Supervisor that it was her property and she could do with it what she wished.

At the hearing, in addition to the above, owner testified that since 1978, she has resided in a basement apartment of a house she owns with her son. She stated there is no heat or bathtub, causing or contributing to arthritis. She offered into evidence a letter from her doctor, dated a few days before the hearing "To Whom It May Concern" stating that because of her arthritis, it was imperative that owner move "back to her home" as quickly as possible. The note further stated, "It would therefore be appreciated if you would vacate the premises as soon as possible."

Hearing Officer found that owner's testimony regarding her health did not outweigh the strong presumption of retaliation. Hearing Officer found the eviction attempt unlawful because of no just cause, no advice clause on the notice, and apparent retaliation.

Recommendation: That owner be sternly cautioned against pursuing the eviction; and he felt the doctor be advised that his letter--presumably directed at the tenants--was improper. Staff concurs that the owner should be cautioned.

2. 520 Scott St. #1 [G142-14(E)]

Four people took up residence in this unit in 1975. In 1981, a child was born, bringing the total occupants to five. They currently pay a rent of \$230.30. Tenants stated they had use of garage space for many years. On October 1, 1985, the building was sold and the new owner moved into another apartment in the twelve-unit building.

On October 8, 1985, an eviction notice was given for "too many occupants." Tenants submitted a copy of their April 1985 lease with the previous owner stating five persons could reside in the unit. In late October, another eviction notice was served, this time for occupancy by owner's sister. At the hearing, owner admitted that despite the

reason stated in the first eviction notice he actually just wanted his sister to move in. She currently resides with her older brother and parents in the family home. He also indicated his desire to have use of the tenant's garage space.

Hearing Officer found the eviction attempt unlawful. The second eviction notice with a new just cause followed shortly after the Rent Board sent written indication to the owner that he could not evict for an additional child. Hearing Officer felt the dominant motivation was to obtain use of the garage; and she doubted whether owner's real intent was to obtain a residence for his sister.

Recommendation: Hearing Officer recommended the Board investigate the case further. Staff suggests a cautionary letter be sent owner and that the case be monitored.

'3. 756 Page St. #1 [G138-28(E)]

Tenancy began in April 1984. On September 6, 1985, tenants sent owner--who lives in the same building--a list of nine repair needs. On September 23, 1985, owner sent a three-day notice to remove an unauthorized third roommate. Tenants immediately responded, stating that no third person lived in the unit. They said that when they questioned owner about the eviction, he accused them of deliberately plugging the plumbing, of possibly breaking into other apartments, and of stealing another tenant's bicycle. Tenants categorically denied these allegations. They further stated that the owner often yells at them and slams the door in their faces when they approach him about repair needs.

On November 17, 1985, a car belonging to a guest of tenants was towed. The next day, an unsigned note was slipped under tenants' door, stating the police would be called if more illegal parking occurred. The note further stated in part: "I will wait for you or your guest to commit some kind of revengeful act against me...Someone will pay a high price for it. I have had enough of this glass breaking, bicycle taking, and placing dead mice by my door. So, if you do not park illegal, that will be the first step to prevent someone from getting hurt."

Owner testified at the hearing that he had seen a male friend of tenants coming and going frequently but had not seen this friend the last few months. At the hearing, the parties set up a time for owner to complete the repairs. Hearing Officer found the attempted eviction unlawful since owner could not prove there was an unauthorized third tenant

Recommendation: Hearing Officer recommends no further action be taken unless owner pursues the eviction. Staff recommends that a strong letter be sent to owner advising him to use proper legal methods in dealing with his tenants and cautioning him against pursuing this eviction action.

4. 2640 Green St. #1 [G138-3(E)]

Tenant--currently an elderly, ill widow--took up residence in the four-unit building in April of 1972 and resided there until February 1985. Her rent at that time was \$520 for a 2-bedroom apartment. On December 31, 1984, owner--an attorney--and his wife sent tenant a letter informing her that they had just purchased the property and were occupying #4. On January 12, 1985, twelve days later, owners gave tenant an eviction notice for owner occupancy. On January 19, 1985, owners informed tenant that they could not give her an extension because they had accepted a purchase offer on their house the first week of January and would have to leave that residence as originally planned.

Landlord testified at the hearing that his wife had remained in their house while he resided in #4 to supervise renovation in that unit. A February 1, 1985 letter to tenant mentioned that workman would begin renovating her apartment February 12. In response to an inquiry about renting #1 to an outside party, owner stated he and his wife would occupy #1, #4 would be available to rent in early March, and #3 would become vacant in several more months. Owners indicated they would consider relocating to another of the units when an elevator was installed. At the time of the October 1985 hearing, such installation was underway.

Both owners occupied #1 as of the end of February. In April, they left #1 and moved to the then vacant #3. Owner testified that they had left #1 because the construction work made use of #1 inconvenient. The work in #1 was completed in June 1985, and the unit was re-rented to new tenants on July 15, 1985 at a rent of \$1,750.00 per month. Tenants in #2 vacated at the end of July and owners moved to #2, where they currently reside. Owners re-rented #4 for \$2,850.00 per month. Owners testified that they had rented out #1 because problems with the heating conversion work had left #2 and #3 without heat temporarily. Owner further stated that it was necessary for them to live in #2 and #3 to maximize their income from the two tenable units in order to pay mortgage and taxes. He further said that he had originally wanted to live in #1 because of chronic back pain, but he later could move to #3 because his back was better and he could negotiate the 36 steps.

Hearing Officer found the eviction wrongful for the following reasons: 1) The work in their initial unit, #4, was essentially completed when they moved to tenant's recently vacated #1; 2) After the work to #1 was completed, owners chose not to move back to the subject unit but rather rent it for \$1,230 more per month; 3) the statements about owner's chronic back pain improving are not convincing, since he testified this is a long-term ailment; 4) the argument of untenability of #2 and #3 is not convincing since the heating problems existed only in the warm summer months; further, #1 was rented several months before proof of any heat problem was documented; 5) installation of the elevator to accommodate owner's back problem suggested his long-range interest was not in the tenant's ground floor unit. Hearing Officer felt this situation presented an avoidance of the requirements that a tenant be able to reoccupy the unit upon completion of the work. Owner's claim the building is now exempt since they took up occupancy December 31, 1984.

Recommendation: Since tenant has moved and has counsel, Hearing Officer recommended that the Board make a finding that this is a wrongful eviction and so inform the parties. She further advised that the Board stress to the parties the remedies available to the tenant and that this owner be monitored for possible future wrongdoing. Staff concurs but is concerned that the tenant's age and poor health may preclude her from pursuing her rights further.

5. 3225 Clay St. #2 [G144-21(E)]

The tenancy in this five-unit building began in 1979. Owner, an attorney, purchased the property in 1980. Tenant lives in #2 and owner has resided in #4. Unit #3 is vacant. Owner testified that he wishes to combine his present #3 with the vacant #4 into a single unit for occupancy by him and his wife. Owner stated it is his intention to live in tenant's unit #2 while the conversion is performed and then re-rent #2 to tenant at market rent, stating that the building would be owner-occupied exempt when #2 was ready for tenant to reoccupy. Owner testified that he had no current plans for making improvements in #2. The chronology of events is as follows:

September 27, 1985:

Owner applies for \$35,000 building permit.

October 15, 1985:

Owner enters into construction contract for \$59,250 with work to begin December 1, 1984.

October 27, 1985:

Owner serves tenant an eviction notice for both owner occupancy and temporary capital improvements.

December 6, 1985:

A new Eviction notice is sent for temporary capital improvements, with a letter stating work would be done in #2.

December 6, 1985:

Partial building permits obtained

In response to Rent Board documents, owner submitted inconclusive evidence to substantiate his position. After a second request for specific written documents, owner attempted a private meeting with the Eviction Unit Supervisor in order to replace the matter. This offer was refused and the case set for hearing.

Hearing Officer found the eviction wrongful because an owner cannot evict a tenant for capital improvement work in the owner's unit; owner occupancy just cause did not apply since owner intended to move back into his own unit after only a four-month stay in tenant's apartment; no building permits had been obtained when the first eviction notice was sent, and it appeared not all permits had been obtained when the second notice was given. (It should be noted further that the owner-occupancy exemption toll would not begin until April 1986 after the presumed conversion to four units. Even assuming all other factors were in the owner's favor, he would have to allow the tenant to take up residency in #2 as of April or whenever owner relocated in #4).

Recommendation: Hearing Officer recommends that owner be advised this eviction attempt is clearly unlawful and that the case should be referred to the District Attorney and City Attorney if owner pursues the matter. He further suggested that the City Planning Department be contacted to see if permits to remove a unit from housing stock are required. Staff concurs.

It was the consensus of the Board to accept the staff and Hearing Officer recommendations on cases #1 and #2; to defer their decision on case #3 until they had read the decision; and to hold a hearing before the Board on case #4.

IX. Calendar Items

January 14, 1986

- 3 appeal considerations
- 1 appeal hearing: 207-209 Webster
- Old Business: Rules Changes
 - 2640 Green St., #1 (eviction)
 - 250 Taylor St. #66(?)
 - Henry Prien report

January 21, 1986

- 4 appeal considerations
- 1 eviction hearing: 3225 Clay St. #2

X. Adjournment

President Chinchilla adjourned the meeting at 8:12 p.m.

1/9/86:ap



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
January 14, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- A. 1604 McAllister St., #6 [G36-29(A)]
- B. 1538 Grant Ave. [G36-30(A)]
- C. 419 Hyde St. [G36-28(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

Henry Prien report; 2640 Green St., #1 (eviction)
Rules & Regs. changes; 250 Taylor St., #66 (possible)

IX. Appeal Hearing

- 1. 207-209 Webster St. [G36-9(A) first cons. 12/3/85)

X. Calendar Items

XI. Remarks from the Public

XII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 14, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Chinchilla called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Chinchilla, Marshall, Payne,

Waller

Commissioners not Present: Alviar, Jackson

Staff Present: O'Hearn, Wicks, Wolf

Commissioner Chan appeared on the record at 5:35 p.m. and went off the record at 6:58 p.m. Commissioner Curran appeared on the record at 5:39 p.m. and went off the record at 7:27 p.m. Commissioner Carrico appeared on the record at 5:44 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 7, 1986 with the following correction: The last paragraph on page 9 should read: "It was the concensus of the Board to accept the staff and Hearing Officer recommendations on cases #1, 2, and 3; to defer their decision on case #4 until they had read the decision; and to hold a hearing before the Board on case #5. (Marshall/Payne: 3-0).

IV. Consideration of Appeals

A. 1604 McAllister St., [G36-29(A)]

Tenant petitioned regarding a history of rent increases over the guidelines and was awarded reimbursement of sums overpaid. In his appeal, landlord maintained that the Hearing Officer should have based his decision on tenant's past rent payment history as well as the illegal notices issued, as tenant had been five months behind in her rent at one time. Tenant's response indicated that she has paid all back rent owed.

MSC: To deny this appeal. (Marshall/Chinchilla: 3-0).

B. 1538 Grant Ave. [G36-30(A)]

Landlord appealed Hearing Officer's finding of wrongful

eviction. Landlord maintains a principal place of residence in Davis, but asserts that she needs to move to San Francisco to be closer to her sewing shop in the same building. Landlord failed to attend the hearing due to alleged health problems, and requests a new hearing. There is a question as to the comparability of another unit in the building that had been vacant. Tenants allege that the dominant motive for the eviction had been their refusal to accept a verbal notice of substantially increased rent.

MSC: To deny this appeal and schedule this case for a hearing before the Board as per the recommendation of the Eviction Unit Supervisor and the Hearing Officer.
(Marshall/Payne: 5-0).

C. 419 Hyde St. [G36-28(A)]

Landlord petitioned for rent increases based on capital improvements and increased operating expenses. Hearing Officer denied the operating expense increase due to his conclusion that the refinancing had not been reinvested in the building; and reduced the amount of the capital improvement passthrough due to the estimator's report. Hearing Officer acknowledged the veracity of several technical corrections requested by the landlord in his appeal.

MSC: To remand this case to a new Hearing Officer for a hearing on the issue of the debt service; and to adopt the technical corrections alleged by the landlord and acknowledged by the Hearing Officer.
(Carrico/Payne: 5-0).

V. Communications

- A. The Board received a letter from the Stonestown Tenants Association requesting advice on management's policy regarding interior painting of their units. This issue will be discussed at next week's Board meeting.

VI. Director's Report

- A. Eviction Unit Supervisor Alicia Wicks advised the Board that Susanna Montana, of the City's Planning Department, will be addressing the issue of artist live-work space at next week's Board meeting.

VIII. Appeal Hearing

1. 207, 209 Webster

A hearing before the Commissioners was scheduled for 6:00 p.m. and began at 6:19 p.m. In appearance was Ellen Rosowsky, representing the landlord. No tenants appeared.

Landlord petitioned for a capital improvement passthrough for siding and deck replacement, including stairs. Hearing Officer approved the increase, but held that it must be divided among all three units in the building. Landlord's appeal maintained that, as the stairs and deck do not benefit the ground floor unit, the cost should be divided between the two units benefitted by the work.

After listening to testimony and reviewing documentation submitted, the Commissioners closed the hearing at 6:24 p.m., and made the following motion:

MSC: To divide the capital improvement costs among the two units benefitted by the work.
(Carrico/Curran: 5-0).

VIII. Old Business

- A. The Board received a report regarding the disposition of their referral of landlord Henry Prien to the District Attorney's office. Rent Unit Supervisor Delene Wolf will draft a letter to the City Attorney's office, inquiring as to the status of this case.

IX. Executive Session

Pursuant to Government Code Section 54956.9(a), the Board went into Executive Session to discuss the case at 2640 Green Street and made the following motions:

MSC: To adopt the findings of fact contained in the Hearing Officer's decision and issue a decision from the Board finding a wrongful eviction in this case.
(Curran/Marshall: 5-0).

MSC: To take no further action on this case.
(Carrico/Payne: 5-0).

X. Old Business (continued)

- B. The Board discussed the case at 250 Taylor Street. Staff will request that Deputy City Attorney Kathryn Pennypacker address the Board on this case next week.
- C. The Board discussed the proposed changes to the Rules and Regulations and will continue this discussion next week.

D. The Board members were reminded of their invitation to speak at the regular monthly meeting of the Old St. Mary's Housing Committee on February 5, 1986.

XI. New Business

A. Commissioner Carrico requested that staff make sure that new Commissioner, Mamie How, knows that she does not have to wait to be sworn in before she can attend Board meetings.

XII. Calendar Items

January 21, 1986

4 appeal considerations

1 eviction hearing: 2807-2808 Bryant St.

5:30: Susanna Montana, Dept. of City Planning, Artist Live-Work Space

5:45: Executive Session, Kathryn Pennypacker, 250 Taylor St.

Old Business:

Stonestown-interior painting policy
Rules and Regulations

January 28, 1986

4 appeal considerations

1 eviction hearing: 3225 Clay St., #2

February 4, 1986

2 appeal considerations

New Business: Election of officers

XIII. Adjournment

President Chinchilla adjourned the meeting at 7:30 p.m.

1/16/86:ap

CITY AND COUNTY OF SAN FRANCISCO

RESIDENTIAL RENT STABILIZATION AND
ARBITRATION BOARD



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 21, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

F
252
2
21/86

I. Call to Order

President Chinchilla called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: : Alviar; Chinchilla; Marshall.
Commissioners not Present: None.
Staff Present: Hernandez; O'Hearn.

Commissioner Chan appeared on the record at 5:34 p.m. and went off the record at 7:10 p.m. Commissioner Payne appeared on the record at 5:35 p.m. and went off the record at 6:34 p.m. Commissioner Curran appeared on the record at 5:35. Commissioner Jackson appeared on the record at 5:36 p.m. Commissioner Waller appeared on the record at 5:40 p.m. Commissioner Carrico appeared on the record at 5:49 p.m. Commissioner Alviar went off the record at 6:48 p.m.

III. Presentation

Susanna Montana, planning coordinator for the City Planning Department and Project Director for the South of Market Artist Live/Work Space Study, recommended that the Board exempt all commercial spaces used for residential purposes in order to encourage owners to add new live/work spaces to commercial or industrial buildings. Such spaces could be granted certificates of occupancy, but could revert to non-residential use at the owner's option. Commissioners Payne and Marsall stated that the Board presently considers such spaces to be exempt if not used for residential purposes since June 13, 1979, the effective date of the Rent Ordinance. However, residential tenancies of any kind since that date entitle the occupants to all protections under the Ordinance. The Board expressed its intent to abide by its present policy, but offered to clarify its language in Policy Directive 1984-2 outlining the applicability of the Ordinance to artists' live/work tenancies.

IV. Executive Session

Pursuant to Government Code Section 54956.9(a) the Board went into Executive Session to discuss Imhoff v. City and County of San Francisco with Deputy City Attorney Kathryn Pennypacker and made the following motion:

MSC: To set aside that portion of the Board's prior decision which determined that the landlord's 7% increase noticed to take effect in May, 1984 was null and void; to instead determine that the 7% increase could have gone into effect in November, 1984; and that the retroactive amount of this increase (\$211.26) be distributed at the rate of \$10 per month over the next 21 months. (Marshall/Alviar: 5-0.)

VI. Approval of the Minutes

MSC: To approve the Minutes of January 14, 1986.
(Carrico/Curran: 5-0.)

VII. Consideration of Appeals

A. 3570 18th St. [G36-31(A)]

The tenant began occupancy in 1981 and his mother lived there for 30 years prior to her death on January 18, 1985. The landlord appealed the Hearing Officer's decision that the unit was not decontrolled by the death of the tenant's mother. The Hearing Officer therefore declined to find the fair market value of the unit. The landlord last accepted rent from the tenant on February 1, 1985. She wants to increase the rent from \$283 to \$600 and claims financial hardship if she cannot do so.

MSC: To accept this appeal for consideration of the hardship issue. (Marshall/Jackson: 4-1, Curran dissenting.)

B. 2576-80 Washington St. [G36-32(A) through G-36-36(A)]

Five appeals by various tenants challenged the Hearing Officer's decision granting increases for capital improvements and for operating expenses. The tenants alleged bias of the hearing officer, unsubstantiated costs, and improper choice of comparison years for increase calculations.

MSC: To remand the case to another Hearing Officer with instructions to consider: (1) the sufficiency of documentation for capital improvement costs and work, (2) whether base rents have been calculated on previous PG&E passthrough amounts; and (3) the choice of comparison years.
(Marshall/Curran: 5-0.)

C. 334 Precita Ave. [G36-37(A)]

The landlord appealed the Hearing Officer's determination that there are five residential dwelling units at this property. The landlord contends that there are only four rental units because the additional basement unit is used

only for storage or occasional guest use. Since the landlord resides at the property, she contends that it is exempt by virtue of owner- occupancy.

MSC: To accept the appeal and schedule a hearing before the Board. . (Carrico/Curran: 5-0.)

D. 685 Geary St. [G36-38(A)]

The landlord appealed the Hearing Officer's decision on remand following his prior appeal of the original decision concerning tenant petitions based on decreased housing services. The Board's prior appeal decision in this case (G32-33(A)) ordered: (1) reconsideration of the award for key service using actual damage suffered by each tenant; and (2) the length of the decrease award for lack of pest control services. On remand the Hearing Officer found that pest control services were restored in May 1985, but did not make any new findings regarding the decrease award for key service.

MSC: To remand this case to another Hearing Officer with the same instructions previously ordered on October 8, 1985 concerning the decrease award for key service. (Carrico/ Curran: 5-0.)

VII. Communications

- A. The Board received a letter requesting a continuance of the appeal hearing on 1355 Bay Street scheduled before the Board on February 4, 1986. The Board granted a one week continuance.
- B. The Commissioners received a letter concerning the public hearing on Assembly Bill 483 (the Costa Bill). The letter is addressed to Mayor Feinstein an Board of Supervisors President John Molinari from State Senator Bill Lockyer, Chairman of the Senate Committee on Judiciary.
- C. The Board received and approved its written decision rendered on December 17, 1985 for consolidated Case Nos. G-36-4(A), G36-1(A) and G36-2(A) concerning 4291-95 24th Street and 803-805 Douglass Street.

VIII. Consideration of Allegations of Wrongful Evictions

A. 2807-09 Bryant Street [F116-23(E) and F116-7(E)]

A hearing before the Commissioners began at 7:14 p.m. At the outset of the hearing, Commissioner Curran disclosed his prior association some years ago with William Robinson, attorney for one of the tenants. However, the parties did not object to his participation in the matter.

Appearances: William Gately, representing Ted Surber; Ted Surber, the landlord; William Robinson, representing Emilia Hughetti; Marilyn Kalman, representing Olga Rivera; and Emilia Hughetti and Olga Rivera, tenants.

The tenants filed these alleged wrongful eviction reports on April 10 and April 12, 1985 after they received notices to move out so that remodeling work could be performed. The landlord obtained a building permit for work estimated at \$25,000 and estimated that the work would be completed in three months. Following the tenants' notification in early October that they had received no word about reoccupancy, staff scheduled the matter for hearing before a Hearing Officer on November 19, 1985. The landlord did not appear at that hearing and the manager, who appeared on his behalf, could not provide documentation of rehabilitation work. At the Board hearing, the landlord, who is a sheetrock contractor, testified about specific work completed. He submitted documents and invoices, as well as photographs.

After the Board closed the hearing, the Commissioners discussed the apparent delays in completing the rehabilitation work. Commissioner Chincilla asked the landlord whether he was aware of the requirements of Regulation Section 12.15.

Tenant representative Robinson proposed that the Board fashion a remedy of offsetting rents or capital improvement pass-throughs when a landlord takes an inordinate amount of time to complete repairs and rehabilitation work. Commissioner Curran stated that the Ordinance specifies the exclusive remedy of bringing a civil suit.

During discussions, the landlord agreed to a re-occupancy date of March 1, 1986. The Board decided to postpone action on this matter until after that date.

IX. Old Business

- A. The Board discussed the letter received last week from the Stonestown Tenants Association regarding management's policy on interior painting. Commissioner Chinchilla will call or meet with the landlord's attorney to request management to cease the policy.
- B. The Board discussed whether to set a public hearing on proposed regulation changes or to set aside time for further discussions among the Commissioners. Further corrections were noted for the 1/21/86 draft, as well as format changes.

MSC: To schedule a public hearing on February 25, 1986. (Curran/Chinchilla: 4-1, Marshall dissenting.)

- C. The Board discussed last week's letter from the attorney for the tenants at 878 York Street [F-24-27(P), F-112-1(E) and F30-3(A)] and requested that staff member Alicia Wicks report back to the Board next week after reviewing the possible courses of action which the Board may take.

X. Calendar Items

January 28, 1986

4 appeal considerations
1 eviction hearing: 3225 Clay St., #2

February 4, 1986

2 appeal considerations
1 eviction hearing: 1538 Grant Ave.
New Business: Election of officers

XIII. Adjournment

President Chinchilla adjourned the meeting at 9:05 p.m.

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1/28/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, ...

January 28, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1075 Post St. #19 [G36-39(A)]
 - B. 295 Guerrero St. #7 [G36-40(A)]
 - C. 601 Minnesota St. [G36-41(A)]
 - D. 145 Laurel St. [G36-42(A)]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - A. Hearings

6:45 p.m. 1.3225 Clay St. #2 G144-21(E) (originally cons. 1/7/86)
- VIII. Old Business

878 York Street, report from Alicia Wicks, Eviction Supervisor
- IX. New Business
- X. Appeal Hearing
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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City and County of San Francisco

**Residential Rent Stabilization and
Arbitration Board**

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 28, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Chinchilla called the meeting to order at 5:31 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Marshall,
Payne, Waller

Commissioners not Present: Curran, Jackson
Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 5:41 p.m.
Commissioner Chan appeared on the record at 5:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 21, 1986,
with the following corrections:

P. 2 - VII Consideration of Appeals, B:
"....(2) whether base rents have been
calculated on previous PG&E passthrough
amounts and previously certified capital
improvements..."

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P. 4 - Eviction Hearing, 2807-09 Bryant St.:
"At the Board hearing, the landlord, who is a
sheetrock contractor, testified about
specific work completed. He submitted
documents and invoices, as well as
photographs. The Commissioners discussed the
apparent delays in completing the
rehabilitation work. Commissioner Chinchilla
asked the landlord whether he was aware of
the requirements of Regulation Section 12.15."
(Alviar/Marshall: 4-0)

IV. Consideration of Appeals

A. 1075 Post St. #19 [G36-39(A)]

Landlord appealed Hearing Officer's ruling that found two
improper rent increases, failure to maintain and repair, and
a decrease in services. Further, Hearing Officer found the
attempted eviction wrongful. Owner and his attorney
indicated that they had never received notice of the hearing
and wished a chance to present their side.

MSC: To remand the case to a new Hearing Officer
for a de novo hearing.
(Payne/Alviar: 4-0)

B. 295 Guerrero #7 [G36-40(A)]

The case was originally heard in August 1985 on the issue of decreases in service. Landlord appealed the awards to tenant, and on appeal the case was remanded for a compliance hearing on the heat and hot water issues only. A remand hearing was held in October 1985. Tenant appealed the remand decision.

MSC: To remand the case to the same Hearing Officer with two instructions:

1. To consider the evidence submitted by the tenant before the record closed; and to allow the landlord a chance to respond to this evidence.
2. To restore the original hot water award of 10%.

(Marshall/Payne: 5-0)

C. 601 Minnesota St. [G36-41(A)]

Landlord appealed Hearing Officer's finding that an artist's live/work space was covered by the Rent Ordinance. Hearing Officer found that the owner's demonstrated intent was to offer live/work spaces, that the units had full residential amenities, and that the units were clearly used for residential purposes. There is no evidence that a certificate of occupancy was ever issued for the former warehouse, and the live/work conversion was apparently in 1977. Therefore, rent increases above the allowable 4% were found to be void. Landlord appealed because his continuance request was never acted upon; and because the building has been rented as purely commercial basis and that the structure is designated as "light industrial."

MSC: To deny the appeal and uphold the Hearing Officer's decision.

(Payne/Marshall: 5-0)

D. 145 Laurel [G36-42(A)]

This case was heard on remand from the Superior Court pursuant to a writ. The Court instructed the Rent Board to determine whether the 15% interest allowed the landlord on capital improvements was proper, or whether the lesser amount mandated in the Rent Ordinance was required. The Ordinance at the time in question allowed interest at the prevailing rate charged by financial institutions; absent proof of the foregoing, interest was limited to 9%. The Hearing Officer held on remand that the 15% loan was allowable, as it was below the prevailing interest rate at that time. Tenants appealed on the issue of the loan for the improvements, arguing that the borrower and lender were essentially the same entity and that the loan was therefore a "sham".

MSC: To deny the appeal and uphold the Hearing Officer's decision.
(Payne/Carrico: 5-0)

V. Communications

- A. Old St. Mary's Housing Committee wrote the Commissioners to inform them of the format for the February 5, 1986 meeting at which some of the Board will appear.
- B. A tenant from 295 Guerrero wrote concerning the appeal issues.
- C. Staff submitted Board decisions for 207/209 Webster and 2640 Green. Both drafts were approved.
- D. A letter from the Mayor concerning conflicts of interest was distributed.
- E. The Commissioners were reminded that it is time for them to submit their 1985 conflict of interest forms.

VI. Director's Report

Executive Director Ricardo Hernandez informed the Board that new Commissioner Mamie How would be sworn in January 31, 1987 at 11:00 a.m.

VII. Alleged Wrongful Evictions

Eviction Unit Supervisor Alicia Wicks reported that the parties for the scheduled eviction hearing concerning 3225 Clay #2 was cancelled. The tenant had informed the Rent Board that he had reached a settlement and did not want to pursue the matter.

VIII. Old Business

- A. 878 York - Ms. Wicks informed the Board that the eviction matter at this address had been sent to the District Attorney's Office for evaluation in mid-December 1985. A report will be given to the Board on the status of this matter.
- B. The Commissioners discussed their concerns about the notice sent by the landlords of the Stonestown complex to tenants who request painting of their units. The Board will write a letter to the landlords expressing their concerns.

IX. Calendar Items

February 4, 1986

2 appeal considerations

2 eviction hearings: 1538 Grant Ave. [F118-40(E)]
2724 - 24th St. [F114-26(E)]

New Business: Election of Officers

February 11, 1986

7 appeal considerations

1 appeal hearing: 3570 - 18th St. [G36-37(A)]

February 25, 1986

Public Hearing to discuss proposed Rules changes.

X. Adjournment

President Chinchilla adjourned the meeting at 6:20 p.m.

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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

February 4, 1986 at 5:30

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

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II Roll Call

FEB 4 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 2420 Van Ness Ave. #14 [G038-02(A)]
- B. 786 Dolores St. [G038-03(A), G038-04(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff

B. Hearings

- 1. 1538 Grant Ave. [G036-30(A), F118-40(E)]
- 2. 2724 - 24th St. [F114-26(E)]

VIII. Old Business

IX. New Business

Election of Officers*

X. Appeal Hearing

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

City and County of San Francisco

**Residential Rent Stabilization and
Arbitration Board**

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 4, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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located
I. Call to Order

President Chinchilla called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present:

Alviar, Chan, Chinchilla, Curran,
How, Marshall, Payne, Waller

Commissioners not Present:

Jackson

Staff Present:

Hernandez, Wicks, Wolf

Commissioner Carrico appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 28, 1986 as written. (Marshall/Payne: 5-0)

IV. Consideration of Appeals

A. 2420 Van Ness Ave. #14 [G038-02(A)]

Tenant petitioned and received an award for decreased services and failure to make requested repairs. In his appeal, landlord alleged that the Hearing Officer was biased toward his representative, and was not sufficiently specific regarding how the reductions were arrived at.

MSC: To remand this case to the same Hearing Officer for clarification in the form of a technical correction regarding: which items constitute decreased services and which are failure to make requested repairs; and to make specific findings regarding the percentage reduction for each item. (Marshall/Alviar: 4-1, Carrico dissenting)

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B. 786 Dolores St. [G038-03(A), G38-04(A)]

Tenant petitioned regarding decreased services and indicated a failure to repair on her petition, but failed to submit a failure to repair statement. Hearing Officer found no substantial decrease in housing services, but disallowed the annual rent increase due to failure to repair. Both parties appealed the decision and agreed that the correct rent figures are in dispute.

MSC: To accept both appeals and schedule this case for a hearing before the Board. (Payne/Carrico: 3-2; Chinchilla, Marshall dissenting)

V. Communications

The Board received the following communications:

- A. Notice of public hearing and Summary of Proposed Rule Changes prepared by staff to be mailed to the public.
- B. A letter from the landlord's attorney regarding the pending appeal at 2140 Pacific Avenue.
- C. An Index of Board Policy Directives prepared by the Deputy Director.

VI. Director's Report

The Director discussed the significant progress being made on the computerization of the Rent Board and showed the Board a report of all petitions logged in to the system as of January 1986.

VII. Consideration of Allegations of Wrongful Eviction

- A. Eviction Unit Supervisor Alicia Wicks reported regarding a particularly egregious situation at 418 - 3rd Avenue [G146-20(E)] and requested that the Board set this case for hearing.

MSC: To set this case for a hearing before the Board. (Payne/Chinchilla: 5-0)

B. 1538 Grant Ave. [G036-30(A), F118-40(E)]

A hearing before the Commissioners began at 6:50 p.m. Present were tenants Kam Yuk Chiu, Ying Sin Chin and their attorney Edwin Lee, and translator Eva Cheng. Landlord Toshi Van Blitter appeared with her attorney, David Yetter. Two of the Commissioners understood the pre-translated testimony.

Tenants filed wrongful eviction reports on May 1, 1985 after receiving notice that the owner desired to move into their unit. Tenants alleged that the owner was not acting in good faith as: the eviction notice came after an oral notice of illegal rent increase; the owners maintains a principal place of residence in Davis, California with her husband; a comparable unit on the second floor is vacant; and on August 30, the owner signed an affidavit swearing that another relative wished to occupy the unit.

Landlord maintained that: she had always wanted to live in San Francisco; the commute to her work place in the building was causing her health problems; she did not need to show signs of discord with her husband or dissolution of her marriage in order to establish her own residence; the other unit in the building was not comparable and had not been vacant during the notice period; she had not requested a rent increase from these tenants; and, although she had never seen this particular unit, it is "luckier" as it is on the third floor.

After taking testimony and receiving evidence from the parties, the Board made the following motion:

MSC: To continue consideration of this case for two weeks in order to allow the parties time to enter into settlement negotiations.
(Payne/Alviar: 3-2; Chinchilla, Marshall dissenting)

C. 2724 - 24th St. [F114-26(E)]

A hearing before the Commissioners began at 8:15 p.m. Present were tenant Irene Ramos, her representative Herbert Hernandez, and translator Maria Solorzano. Landlord Conrad Garcia appeared with his attorney Michael Farrah, and witness Robert Garcia.

Tenant filed a Report of Alleged Wrongful Eviction on April 1, 1985, after receiving notice that the owner wished to occupy her unit. Tenant alleged that landlord was retaliating against her for having filed a petition with the Rent Board. Additionally, landlord maintained a principal place of residence in Pittsburg, California, and tenant believed that her unit would be a secondary residence for his use after bartending in a club he owns in the same building. As landlord has separated from his wife, he maintained that 2724 - 24th Street would be his only residence, although the possibility remained that he and his wife would reconcile. After receiving a Hearing Officer's decision finding a wrongful eviction, landlord chose not to pursue the eviction for his own use.

However, on December 24, 1985, tenant was served with a new notice to vacate for occupancy by landlord's brother, Robert Garcia. Robert Garcia testified that, although he worked as a longshoreman in various locations throughout Northern California, most recently his work predominated in San Francisco, and he was tired of commuting from Sacramento. Landlord's attorney argued that this new eviction attempt was valid on its face and should be considered totally separate from the history of prior eviction attempts on this unit.

After listening to testimony and reviewing documentation submitted, the Commissioners closed the hearing at 8:55 p.m. and made the following motion:

MSC: To find a wrongful eviction in this case.
(Marshall/Alviar: 5-0)

Pursuant to Government Code Section 54956.9(a), the Board went into Executive Session to discuss the case at 2724 - 24th Street and made the following motion:

MSC: To retain jurisdiction over this case pending the outcome of the currently outstanding eviction notice. (Marshall/Alviar: 5-0)

VIII. Old Business

A. The Board discussed the upcoming public hearing regarding proposed Rules Changes, and made the following motion:

Page Four of the Minutes of February 4, 1986

MSC: To delete consideration of Sections 6.12 and 6.15 from this round of Public Hearings.
(Payne/Marshall: 3-2; Alviar, Chinchilla dissenting)

The Board approved the Summary of Proposed Changes, with the above modification, and it will be mailed to the public as soon as it is ready.

B. The interior painting policy of the Stonestown complex will be discussed at next week's Board meeting.

IX. New Business

Pursuant to the following motions, the Board elected new officers:

MSC: To elect Commissioner Payne President of the Rent Board. (Chinchilla/Marshall: 5-0)

MSC²: To elect Commissioner Marshall Vice-President of the Rent Board. (Payne/Carrico: 5-0)

X. Calendar Items

February 11, 1986

8 Appeal Considerations

1 Appeal Hearing: 3570 - 18th St. [G036-31(A)]

Old Business: Stonestown Interior Painting Policy

February 18, 1986

7 Appeal Considerations

1 Appeal Hearing: 334 Precita [G036-37(A)]

February 25, 1986

Public hearing regarding Proposed Regs Changes

XI. Remarks from the Public

Ted McCalla congratulated the Board's new officers.

XII. Adjournment

Outgoing President Chinchilla adjourned the meeting at 9:29 p.m.



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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

February 11, 1986

State Building, 350 McAllister St. #1158

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 1355 Bay St. #1 [G038-01(A)]
 B. 147 Crown Court #7 [G038-13(A)]
 C. 876 Haight St. #2 [G038-05(A)]
 D. 928 Broderick St. [G038-06(A)]
 E. 810 Eddy St. #509 [G038-21(A)]
 F. 605 Lyon St. #6 [G038-20(A)]
 G. 147 Tiffany Ave. [G038-19(A)]
 H. 825 Post/1645 Leavenworth St. [G040-1(A) and G038-22(A),
 G038-41(A)]

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - B. Hearings
- VIII. Old Business

Stonestown: Interior Painting Policy
- IX. New Business
- X. Appeal Hearing
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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86 3 MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 11, 1986
at 5:30 p.m. at the State Building, 350 McAllister Street, room 1158

I. Call to Order

President Payne called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Chan; Curran;
How; Marshall; Payne; Waller;
Commissioners not Present: Chinchilla; Jackson
Staff Present: Hernandez; O'Hearn

Commissioners Waller and How appeared on the record at 5:35 and 5:37 p.m., respectively. Commissioners Curran and Carrico appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of February 4, 1986.
(Alviar/Marshall: 4-0) DOCUMENTS DEPT.

IV. Consideration of Appeals

FEB 19 1986

A. 1355 Bay Street #1 [G38-01(A)]

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The landlord appeals the Hearing Officer's Decision on Remand following a de novo hearing granted by the Board on September 24, 1985 in consideration of the landlord's appeal [G32-26(A)] of the original hearing officer's decision. The tenant's rent decrease petition is based on lack of heat in one bedroom, lack of heat and extra payments for use of a garage. On remand the hearing officer granted a 5% rent reduction for three and 3/4 months due to lack of hot water and a 20% reduction for ten and 1/2 months for lack of heat. The hearing officer determined that the garage issue was a contract claim outside the jurisdiction of the Board.

MSC: To deny the appeal. (Marshall/Alviar: 3-1,
Payne dissenting)

B. 147 Crown Court #7 [G38-13(A)]

The landlord appeals the hearing officer's decision on the tenant's petition for wrongful increases imposed during a rent freeze following the landlord's condo conversion request (May 1983 - December 1984). The landlord alleges calculation errors and contends that the Board is without jurisdiction to award future rent offsets for past overcharges. In addition, he claims that municipal and superior court litigation supercedes the tenant's claim.

MSC: To accept the appeal. (Alviar/Payne: 5-0)

C. 876 Haight Street #2 [G38-05(A)]

The tenant's petition alleges a wrongful increase imposed two months after he moved to unit 2 from another unit in the building. The landlord appealed the hearing officer's decision finding the increase invalid.

MSW: To deny the appeal. (Marshall/Chan)

MSC: To accept the appeal and schedule a hearing before the Board. (Carrico/Alviar: 5-0)

D. 928 Broderick Street [G38-06(A)]

The tenant filed this petition on July 22, 1985 based on decreases in service. The landlord failed to appear at the hearing, but later sent notices to the Board regarding the tenant's eviction. The hearing officer granted a 40% decrease (\$70/month) from July 1984 to July 1985. The landlord appeals claiming that the Board has no jurisdiction based on the unlawful detainer judgment entered on July 3, 1985 and on the tenant's previous attempt to litigate the matter in Superior Court. The landlord also claims that the tenant gave false testimony to the hearing officer.

MSC: To accept the appeal. (Carrico/Alviar: 5-0)

E. 810 Eddy Street #506 [G38-21(A)]

The tenant untimely appeals the hearing officer's decision granting capital improvement increases for 29 units in the building. He claims that the previous 4% increase applied to his unit is incorrect and he disputes the allocation of capital improvement expenses.

MSC: To deny the appeal. (Carrico/Alviar: 5-0)

F. 560 Lyon Street #6 [G38-20(A)]

By his appeal the landlord disputes the hearing officer's determination that a garage is included in the base rent and that the increase on the garage rent is therefore null and void.

Commissioner Carrico disclosed his business relationship with the landlord in this case.

MSC: To excuse Commissioner Carrico from consideration of the appeal. (Marshall/Payne: 5-0)

MSC: To deny the appeal. (Marshall/Cahn: 5-0)

G. 147 Tiffany Street #6 [G38-19(A)]

One of the tenants who did not appear at the hearing on the landlord's increase petition untimely appeals the hearing officer's decision granting a 22% increase (approximately \$109) for her unit based on capital improvement expenses.

MSC: To deny the appeal. (Alviar/Carrico: 5-0)

H. 825 Post Street and 645 Leavenworth Street
[G38-22(A) through G38-41(A) and G40-1(A)]

Twenty-one tenants appeal the hearing officer's decision on their consolidated rent decrease petitions filed beginning in 1983 for reduction of services and failure to perform repair and maintenance.

In their 1985 petitions, the tenants additionally contested the 1984 and 1985 PG&E passthroughs. The hearing officer declined to determine a method of calculating the appropriate passthrough, and instead proposed that the landlord and tenant representatives develop a satisfactory formula.

The Executive Director requested that the Board continue its consideration of these appeals because the hearing officer's decision was inadvertently excluded from some of the Commissioner's Board meeting packets.

MSC: To continue consideration of these appeals to next week's agenda. (Alviar/Marshall: 5-0)

V. Communications

VI. Director's Report

A. The Executive Director summarized the agency's statistics for January 1986. In particular, he noted the increased number of appeals and petitions.

B. The Director also reported on the public hearing on commercial rent control by the Board of Supervisor's Planning, Housing and Development Committee. The Mayor has requested reports on commercial rent control inquiries to the Rent Board.

VII. Old Business

A. The Board reviewed and approved a letter to the management of Stonestown regarding management's misleading and erroneous policy on interior painting of the tenants' apartments. A copy will be sent to the tenants' association.

B. The Deputy Director noted corrections on the Summary of Draft Rule Changes.

IX. Calendar Items

February 18, 1986

7 Appeal Considerations

February 25, 1986

Report on settlement negotiations for eviction Case No. G118-40(E) concerning 1538 Grant Street.
Public Hearing on Proposed Changes to the Board's Rules and Regulations.

X. Remarks from the Public

A. The appellant for Case No. G38-01(A) [Agenda Item IV. A.] requested the Board to reconsider its action on the appeal. No such motion was made.

B. A member of the public noted an article on February 10, 1986 in the San Francisco Examiner concerning a measure passed by the Los Angeles City Council. The measure provides for relocation fees for tenants displaced through "no fault" evictions.

C. Another member of the public requested the Board to explore the availability of units for rent prior to the control of a particular unit.

XI. Adjournment

President Payne adjourned the meeting at 6:34 p.m.

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
February 18, 1986 at 5:30

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

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II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- A. 825 Post St. & 645 Leavenworth St.
[G038-22(A) through G038-41(A) & G040-01(A)]
- B. 536 Thornton Ave. #2 [G038-08(A) & G038-09(A)]
- C. 1151 Post St. [G038-10(A)]
- D. 1600 Clement St. #305 [G038-07(A)]
- E. 421 Ellis St. #403 [G38-14(A)]
- F. 3456 - 3456A 17th St. [G38-15(A)]
- G. 720 Jones St. #47 [G38-17(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

IX. New Business

X. Calendar Items

XII. Remarks from the Public

XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 18, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Chan, Chinchilla, How, Payne,
Waller

Commissioners not Present: Alviar, Jackson
Staff Present: Hernandez, Wolf

Commissioner Marshall appeared on the record at 5:34 p.m.;
Commissioner Carrico appeared on the record at 5:35 p.m.;
Commissioner Curran appeared on the record at 5:39 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 11, 1986,
as amended. (Chinchilla/How: 4-0)

IV. Consideration of Appeals

BOOKSHELF NUMBER F.

FEB 21 1986

A. 825 Post Street and 645 Leavenworth Street [G38-22(A) through G38-41(A) and G40-1(A)] SAN FRANCISCO PUBLIC LIBRARY

Twenty-one tenants appeal the Hearing Officer's decision on their consolidated rent decrease petitions filed beginning in 1983 for reduction of services and failure to perform repair and maintenance.

In their 1985 petitions, the tenants additionally contested the 1984 and 1985 PG&E pass-throughs. The Hearing Officer declined to determine a method of calculating the appropriate pass-through, and instead proposed that the landlord and tenant representatives develop a satisfactory formula.

MSC: To remand this case to a new Hearing Officer on the issues of heat, hot water, and the utility pass-through. (Chinchilla/Marshall: 3-2; Payne, Carrico dissenting)

B. 536 Thornton Ave. #2 [G038-08(A) & G038-09(A)]

Tenants petitioned regarding garage increases over the guidelines, the landlord's practice of "rounding-up", and illegal rent increases imposed in July of 1981. The landlord withdrew the garage increases. Tenants contend in

their appeal that increases over 7% were not permissible in 1981 without the landlord filing a petition.

MSC: To deny this appeal. (Chinchilla/Curran: 5-0)

C. 1151 Post St. [G038-10(A)]

Tenant petitioned regarding landlord's failure to repair his vandalized door locks, but failed to appear for the scheduled hearing so his petition was dismissed. Tenant maintained on appeal that he never received the Notice of Hearing as his mail box had been vandalized.

MSC: To remand this case for a new hearing. (Chinchilla/Carrico: 5-0)

D. 1600 Clement St. #305 [G038-07(A)]

Tenant appealed as inadequate the Hearing Officer's award for sewage problems resulting in a lack of heat, hot water, and refrigeration for ten days. The Board accepted the appeal and adjusted the award after hearing the case. The tenant is appealing the Board's decision as inadequate still.

MSC: To take no action on this agenda item as it doesn't follow proper administrative procedures as outlined in the Rent Ordinance. (Chinchilla/Curran: 5-0)

E. 421 Ellis St. #403 [G38-14(A)]

Tenant received a rent reduction due to a broken doorbell and elevator, and the annual increase was denied pending landlord's repair of a leaky roof. Tenant appealed the 10% reduction for permanent loss of elevator service as grossly inadequate. Her attorney requested that the petition be dismissed without prejudice, as he asserted that the tenant would receive greater compensation from the courts, but that the hearing officer's decision might have the effect of res judicata.

MSC: To deny this appeal. (Chinchilla/Curran: 5-0)

F. 3456-3456A - 17th St. [G38-15(A)]

Landlord petitioned for rent increases based on capital improvements, increased operating expenses, and comparables. The Hearing Officer approved capital improvement increases with certain deletions for repair items, disallowed operating expense increases as landlord

failed to provide sufficient documentation, and denied comparables due to landlord's failure to repair, the fact that his units were not in as good shape, and the CPI limitations. On appeal, landlord alleged several mistakes by the Hearing Officer and requested interest on his capital improvements.

MSC: To remand this case to a new Hearing Officer on the issues raised by the landlord.
(Chinchilla/Carrico: 5-0)

G. 720 Jones St. #47 [G38-17(A)]

Tenants petitioned for failure to repair and decreased services due to holes in the ceiling, chipped paint and peeling plaster, decayed sink and tile, filthy garage chute, and broken window and door buzzer. The annual increase was denied and tenants were awarded rent reductions for several of the above items. Tenants also contested a rent increase due to an alleged additional occupant in the unit. On appeal, landlord pointed to their submission after the record closed, which alleged that many of the repairs had been done.

MSC: To deny this appeal. (Marshall/Curran: 3-2;
Payne, Chinchilla dissenting)

V. Communications

The Board received a copy of a Press Release and Summary Report regarding the increase in evictions prepared by the Eviction Watch Project of the San Francisco Tenants Union.

VI. Director's Report

The Executive Director reported that he had sent a letter to Supervisor Renne regarding changing the Rent Board's filing fees and lengthening the appointment terms for Commissioners.

VII. New Business

Commissioner Carrico reported on his understanding that the Property Conservation Division of the Department of Public Works is doing away with the concept of condemning buildings and raised the issue of the potential need for changes in the substantial rehabilitation section of the Rent Ordinance.

VIII. Calendar Items

February 25, 1985

Old Business: 1538 Grant St. Settlement [G118-40(E)]
Public Hearing: Proposed Rules Changes

Page 3 of the Minutes of February 18, 1986

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MSC: To remand this case to a new Hearing Officer on the issues raised by the landlord.
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MSC: To deny this appeal. (Marshall/Curran: 3-2;
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VIII. Calendar Items

February 25, 1985

Old Business: 1538 Grant St. Settlement [G118-40(E)]
Public Hearing: Proposed Rules Changes

Page 4 of the Minutes of February 18, 1986

March 4, 1986

10 Appeal Considerations

Appeal Hearing: 3570 - 18th St. [G36-31(A)]

Old Business: 2807-09 Bryant St. Update [F116-23(E) & F116-7(E)]

March 11, 1986

6 Appeal Considerations

1 Eviction Hearing: 418 - 3rd Ave. [G146-20(E)]

IX.

Adjournment

President Payne adjourned the meeting at 6:17 p.m.

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FEB 10 1986

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NOTICE OF PUBLIC HEARING

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE BOARD'S RULES AND REGULATIONS. THE PROPOSED CHANGES ARE OUTLINED IN THE ATTACHED SUMMARY.* PUBLIC COMMENTS WILL BE ACCEPTED AT THE HEARING.

* DATE: FEBRUARY 25, 1986 *
* TIME: 6:00 p.m. *
* PLACE: STATE BUILDING, ROOM 1158 *
* 350 McALLISTER STREET *
* (between POLK and LARKIN) *
* SAN FRANCISCO, CALIFORNIA *
* *****

* THE FULL TEXT OF THE PROPOSED CHANGES IS AVAILABLE AT THE RENT BOARD OFFICES AT 170 FELL STREET, ROOM 16, IN SAN FRANCISCO ON MONDAY, WEDNESDAY AND FRIDAY FROM 8:30 to 5:00 and ON TUESDAY AND THURSDAY FROM 8:30 to 1:00 p.m. The offices will be closed on Wednesday, February 12th and Monday, February 17th.



SUMMARY OF DRAFT RULE CHANGES

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SAN FRANCISCO
PUBLIC LIBRARYIntroduction

The Board is considering changes to its Rules and Regulations. Following is a summary of possible changes which the Board may consider adopting. When options are listed under a Regulation Section, it means that the Board is considering more than one possible change to that section. Only one option, if any, will be adopted by the Board. Options are included in some proposed changes for the purpose of discussion by both the Commissioners and the public.

Section 1.11 Anniversary Date

Adds a provision allowing a new anniversary date to be set when allowable increases are imposed after one year since the current rent date.

Section 2.13 Board Meetings

Changes the mandatory meeting to at least one Tuesday of each month, instead of the first Tuesday.

Section 4.11 Computation of Passthrough of Gas and Electricity

- (a) Changes the term "rent increase anniversary" to "annual rent increase."
- (b) Changes the term "passthrough" to "recover."
 - (1) Computation is based on the 2 calendar years preceding the passthrough instead of 1980 and 1981.
 - (2) through (5) Simplifies the calculation language.
- (c) Replaces current subsections (d) & (e).
- (d) Currently subsection (c); no changes.
- (e) Currently subsection (f); no changes.
- (f) Currently subsection (g); no changes.
- (g) Currently subsection (h); no changes.
- (h) Currently subsection (i); no changes.
- (i) Currently subsection (j); no changes.

Section 4.13 Banking

- (a) Adds a provision that banked increases may be imposed after the rent increase anniversary date.

SUMMARY OF DRAFT RULE CHANGES

February 5, 1986

Page 2

Section 6.10 Operating and Maintenance [subsection (a) only]

Option 1 Adds the alternative of using the preceding two calendar years.

Option 2 Disallows prospective debt service by requiring use of actual costs incurred; calculation is to be based on calendar years, unless such calculation creates an undue hardship on the landlord.

Option 3 Requires use of actual costs, except for substantiated prospective increased debt service and/or property taxes.

[NEW] Section 6.13 Agreements to Pay Additional Rent for Children

Option 1 Provides that no extra rent may be charged for the addition of a newborn child, regardless of any contrary terms in the rental agreement.

Option 2 Adds to option 1 an exemption for foster children for which the tenant receives consideration.

Option 3 Provides that any requirement to pay rent increases in excess of amounts permitted under the Ordinance is deemed unenforceable, including any requirement for additional rent for the addition of a newborn child.

Section 10.10 Decrease in Services

[NEW subsection] (c) Implements Board policy disallowing a rent decrease more than twelve (12) months prior to raising the issue (or filing the decrease petition) except in extraordinary circumstances.

Section 11.14 Absence of Parties

Adds a provision requiring a declaration from a party who bases an appeal substantially due to failure to receive notice of the hearing.

Section 11.18 Burden of Proof

Changes the 7% increase reference to that of the allowable annual rent increase.

SUMMARY OF DRAFT RULE CHANGES
February 5, 1986
Page 3

Section 12.15 Notices Regarding Capital Improvement Work

[If adopted, current Section 12.15 would be re-numbered to 12.16.]

Specifies requirements for eviction under Ordinance Section 37.9(a)(11) including that (1) the work must involve that which would make the unit hazardous, unhealthy and/or uninhabitable, (2) tenants be given the opportunity to work out a schedule to remain while the work is being done, and (3) tenants receive copies of the permits, a description of the work and an approximate date for reoccupancy.

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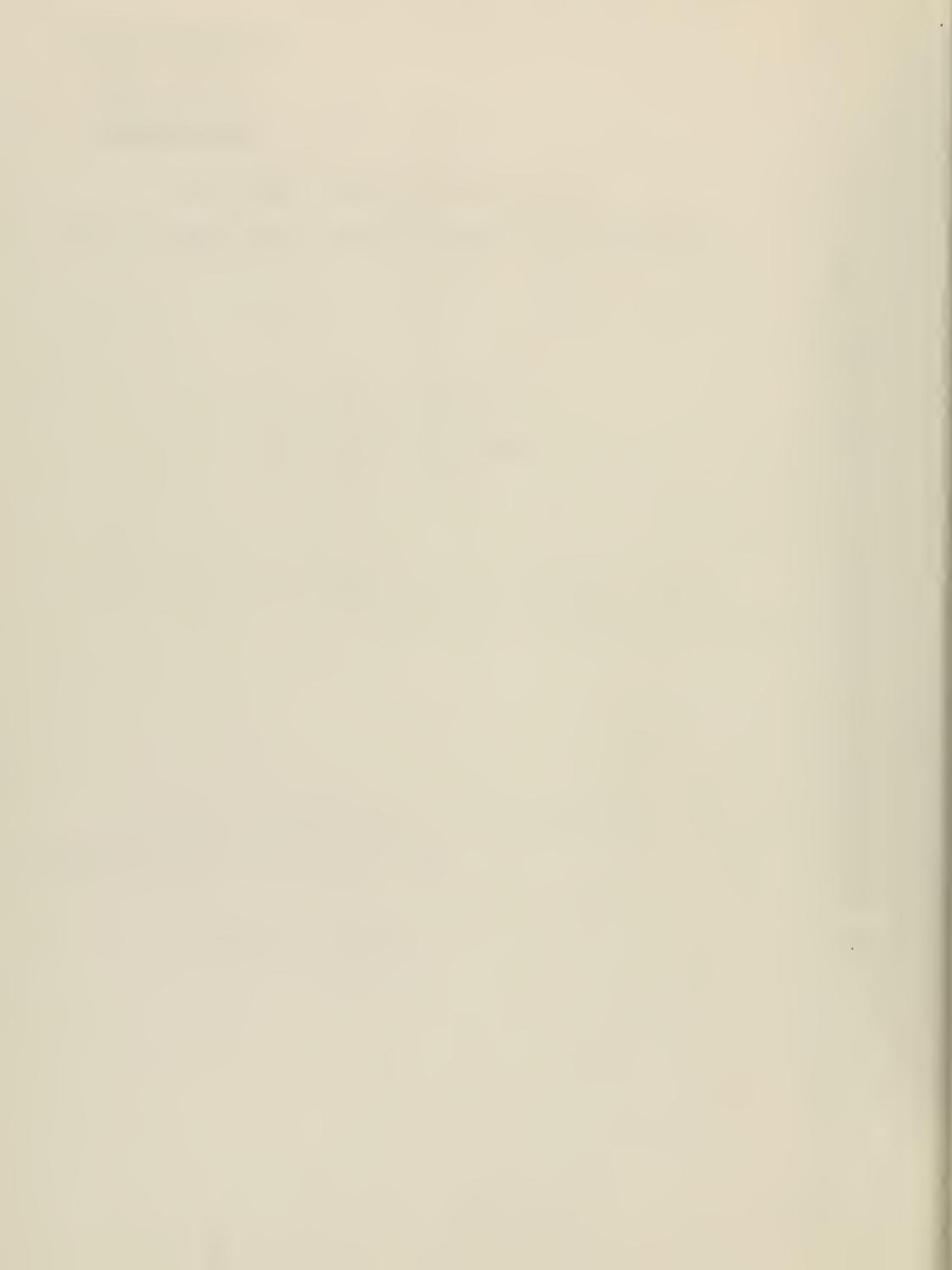
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10 CITY AND COUNTY OF SAN FRANCISCO
11 RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD
12
13

14 PROPOSED CHANGES TO
15 RULES AND REGULATIONS
16 * * * * *

17
18 NOTE: Proposed deletions are within brackets and
19 proposed additions are underlined.
20
21

22 Board Office: 170 Fell Street, Room 16
23 San Francisco, California 94102
24

25 Telephone 621 RENT
26
27
28



1 The anniversary date is the date on which the tenant's
2 current rent became effective[. However, a rent increase
3 granted as a result], except in the case of [certification of]
4 certified capital improvements, rehabilitation, and/or energy
5 conservation work [shall] which, when granted, do not affect or
6 change the anniversary date. The next allowable rent increase
7 shall take effect no less than one year from the anniversary
8 date, but when imposed after one year, shall set a new
9 anniversary date for the imposition of future rent increases.

10 Section 2.13 Board Meetings

11 The Board shall meet [on the first] at least one Tuesday
12 of each month at 5:30 p.m. at Room [1195] 1158, the State
13 Building, 350 McAllister Street, San Francisco, California,
14 94102[, except when that day falls on a legal holiday, the
15 meeting shall be held the following day]. The Board shall meet
16 [on subsequent Tuesdays of them month and] at such other times
17 [only] as necessary to stay current with the workload or tend
18 to administrative matters. Special meetings may be held any
19 time, upon compliance with Charter provision 3.500. Meetings
20 shall be open to the public, except that any member may require
21 that matters for which meetings in executive session are
22 allowed by law be discussed and considered in executive
23 session, provided all votes of the members shall be matters of
24 public record.
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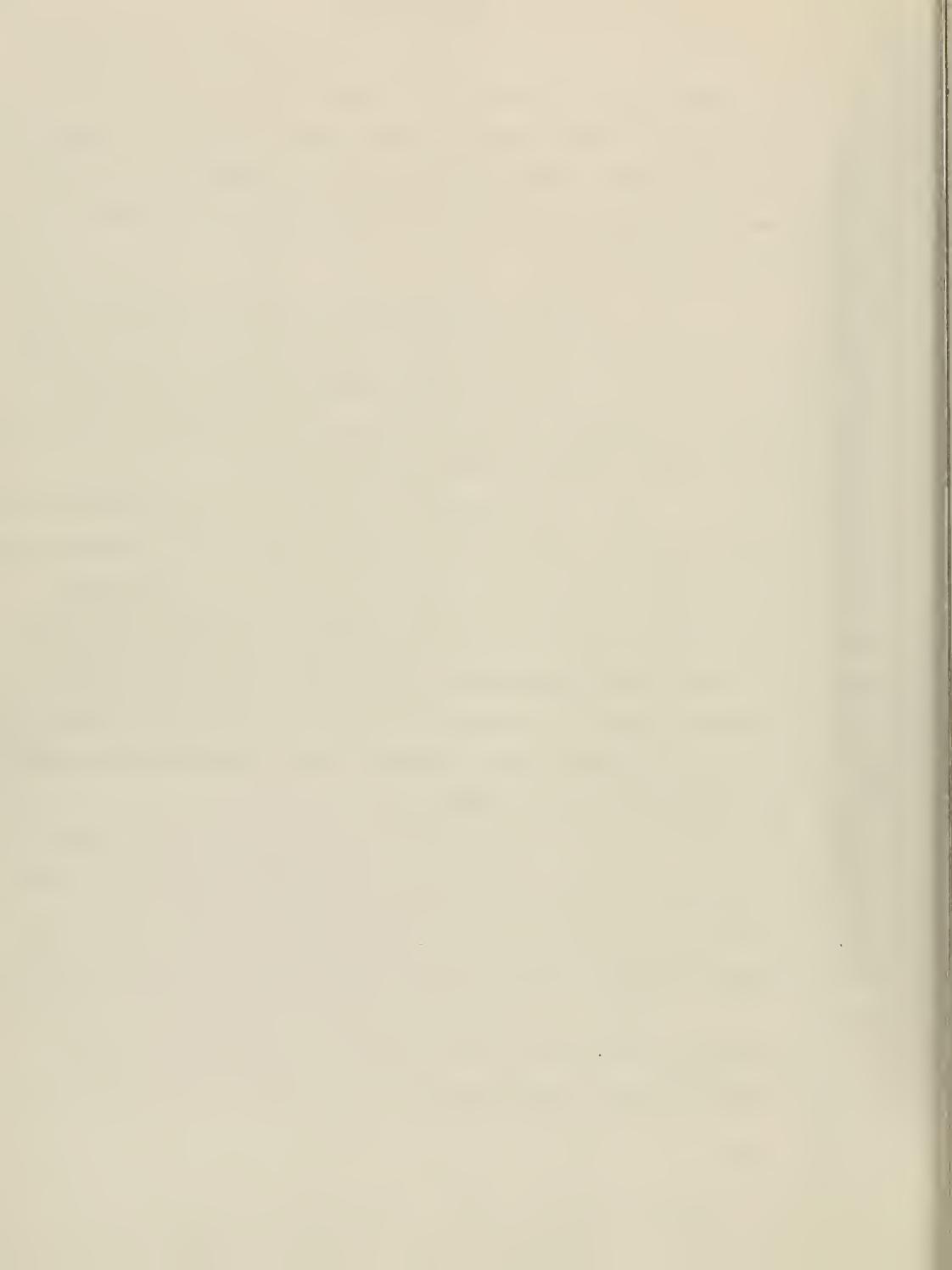
(a) No landlord may pass through any increase in the cost of the utilities to a tenant until the tenant has occupied one or more units in the subject building for one continuous year. Each utility passthrough may be charged to the tenant only at the time of [a]n annual rent increase [anniversary].

(b) Where a landlord pays for utilities and seeks to [pass through to the tenant an increase based on increased cost of those utilities] recover the increase in utilities costs from tenants, the landlord shall calculate the amount of such increase by using the following method:

(1) [Calculate the sum of utility costs for the twelve PG&E bill received in calendar year 1981. This sum will be referred to as "total current utilities."] Compile the utilities receipts for the two calendar years preceding the noticing of the passthrough. The calendar year immediately preceding the noticing shall be referred to as the "comparison year;" the calendar year preceding the "comparison year" shall be referred to as the "base year."

(2) Calculate the [sum] total utility cost for the [twelve PG&E bills received in calendar year 1980. This sum will be referred to as "total comparison utilities."] comparison year and the total utility cost for the base year.

(3) Subtract the total [comparison utilities] base year utility cost from the total [current utilities] comparison year utility cost. [and divide the result by 12 to



determine the average monthly utility increase (or decrease) for the entire building. Divide this amount by the number of rooms in the building.]

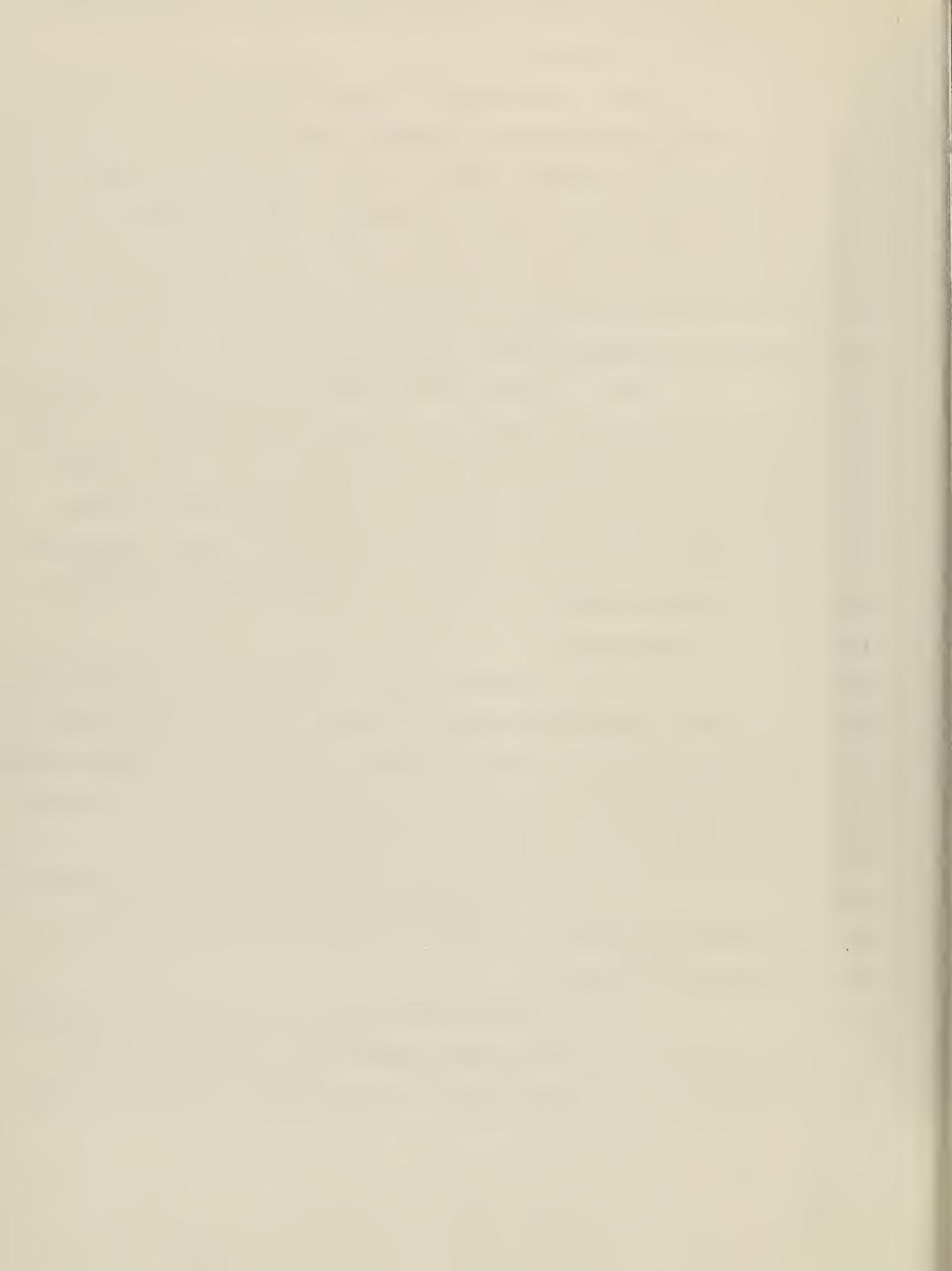
(4) [Multiply the per-room monthly increase (or decrease) by the number of rooms in each tenant's unit: single rooms without kitchens count as one (1) room unit; studios are two (2) room units; one (1) bedrooms without a separate dining room are three (3) room units, and so on.] Divide the resulting figure by 12 to determine the average monthly utility increase or decrease for the entire building.

(5) Divide the average monthly utility increase or decrease by the number of rooms in the building. For the purposes of this section the number of rooms in a building shall be calculated by presuming that single rooms without kitchens are one room units, studios are two room units, one bedroom units without a separate dining room are three room units, and so on.

(c) If a utility pass-through has been instituted, subsequent passthroughs shall be determined for the immediately following year by calculating the utility cost for the calendar year preceding the noticing of the passthrough. This amount shall become the up-dated comparison year figure.

(1) The passthrough shall then be calculated in accordance with Rules and Regulations Sections 4.11(b)(3) through 4.11(b)(5).

(2) Until such time as an annual rent increase is noticed the current passthrough shall remain in effect. However, if a landlord does not recalculate and renote the



passthrough at the subsequent
passthrough is discontinued until recalculated and renoticed.

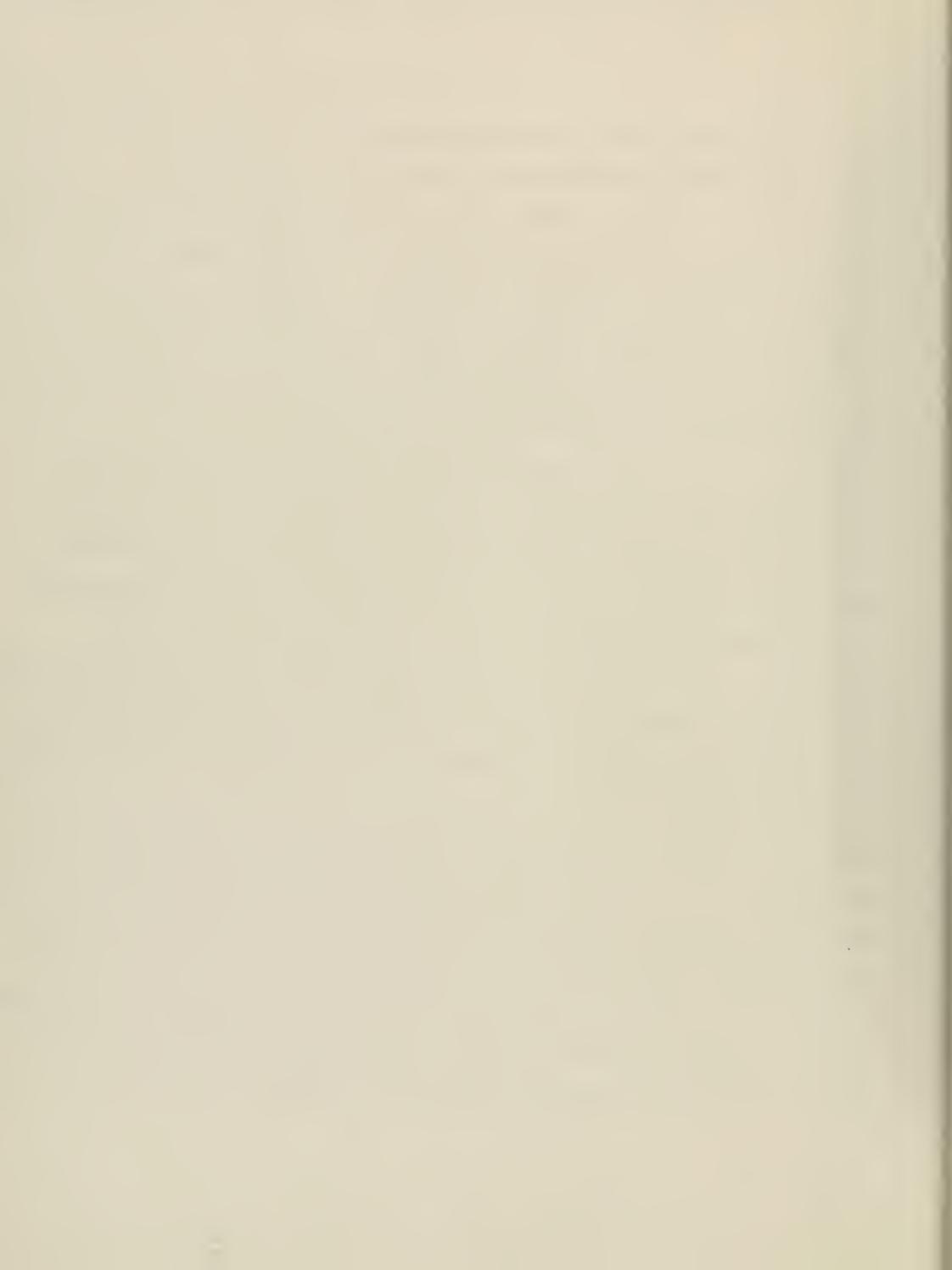
(d) Wherever the situation exists that prior to January 1, 1982 the landlord had elected a utility pass-through calculated under the previously approved method, the following step shall be followed to convert to the new method:

(1) Where the utility pass-through recalculation is due to occur before the rent is to be increased, the landlord shall notify the tenant(s) that the current pass-through will remain in effect until such time as the pass-through is recalculated using the 1980-1981 periods and to coincide with a rent increase anniversary.

(2) Where the rent increase is due to occur before the pass-through is to be recalculated under the old system, the landlord shall recalculate using the new system described above in order to coincide the utility pass-through increase (or decrease) with a rent increase anniversary.

(e) Subsequent pass-throughs shall be determined by the same procedure as outlined in subsection (c) above by using each following year's utility cost to calculate "total current utilities."]

(d) Nothing in this section or in these Rules and Regulations shall be interpreted as requiring any landlord to pass through any utility increase or raise any tenant's rent. However, where the utility costs decrease in years subsequent to the passing through of an increase, the tenant must be given the benefit of such decrease calculated in the same manner as any increase passed through under Ordinance Section 37.2(n). A



tenant may petition the Board for an arbitration hearing whenever a passthrough charge has been noticed or is in effect and the tenant protests the amount being charged or the calculation procedure being used by the landlord.

(e)[f] If the method set forth for calculation of an increase (or decrease) in utilities in subsection (c) or subsection (e) of this Section cannot be applied for reasons beyond the control of the landlord, and in the absence of a relevant agreement between the landlord and the tenant, the landlord may petition the Board for an arbitration hearing to establish an appropriate alternative method.

(f)[g] The amount due from the tenant for any utilities passthrough shall be due on the same date as a rent payment normally would be due.

(g)[h] No amount passed through to the tenant as a utility increase shall be included in the tenant's base rent for purposes of calculation of the amount of rent increases allowable under the Ordinance and these Rules and Regulations.

(h)[i] The provisions of this Section shall be deemed a part of every rental agreement or lease, written or oral, for the possession of a rental unit subject to the Ordinance unless the landlord and tenant agree that the landlord will not pass through any utility increases, in which case such agreement will be binding on the landlord and on any successor owner of the building.

(i)[j] Where a utility increase has been lawfully passed through to the tenant, a change in the ownership of the building in which the tenant's unit is located will not affect

1 the tenant's liability to pay the amount passed through or the
2 tenant's entitlement to the benefit of decreases in the
3 utilities costs.

4

5 Section 4.13 Banking

6 (a) A landlord who refrains from imposing an annual
7 rent increase, or any portion thereof, may accumulate said
8 increase and impose that amount on or after the tenant's
9 subsequent rent increase anniversary date. Only those
10 increases which could have been imposed on, or subsequent to,
11 April 1, 1982, may be accumulated. A full 12 months must have
12 elapsed from the date that an annual rent increase or a portion
13 thereof, could have been imposed before this banking section
14 becomes applicable.

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PART 6 RENT INCREASE JUSTIFICATIONSSection 6.10 Operating and Maintenance

Except in extraordinary circumstances, the following guidelines shall apply to increases based upon Operating and Maintenance expenses;

(a) A rent increase may be considered justified if it is found that the aggregate cost of operating and maintenance expenses (including but not limited to real estate taxes, water, sewer service charge, janitorial service, refuse removal, elevator service, security system and debt service) has increased over the 12 months immediately preceding the date of filing the petition (adjustment year), compared to the operating and maintenance expenses incurred in the 12 months prior to the adjustment year (comparison year).

OPTION 1 ADDITION

Alternatively, the immediately preceding two calendar years may be used.

OPTION 2 ADDITION

In all cases operating expense increases shall be based on actual costs incurred by the landlord.

OPTION 3 ADDITION

~~Operating expense increases must be based on actual costs incurred except for increased debt service and/or property taxes, which may be applied for prospectively.~~

~~Substantiation of such prospective costs is required.~~

~~Operating and maintenance expenses should usually be calculated for the calendar years prior to the filing of the petition for arbitration. This general rule, however, may find an exception when calculation by these periods creates an undue hardship on the landlord such as when large amounts been accounted for solely by reference to fiscal years. Care should be taken, however, to determine that use of alternate calculation periods is not merely an attempt to create favorable results.~~

To determine the per unit increase, this cost increase is divided by 12 months, then divided by the number of units in the building.

1 PART 10 TENANT PETITION FOR ARBITRATION

2 Section 10.10 Decrease in Services

3 (a) A tenant may petition for a reduction of base
4 rent where a landlord has substantially decreased housing
5 services without a corresponding reduction in rent.

6 (b) Petition for arbitration based on decreased
7 services shall be filed on a form supplied by the Board. The
8 Petition shall be accompanied by a statement setting forth the
9 nature and value of the service for which the decrease is being
10 sought, and the date the decrease began and ended, if
11 applicable.

12 (c) Except in extraordinary circumstances, or where
13 there have been long-term verifiable oral or written notices to
14 a landlord of decreased services, no rent decrease will be
15 allowed for a period longer than twelve months prior to the
16 raising of the issue.

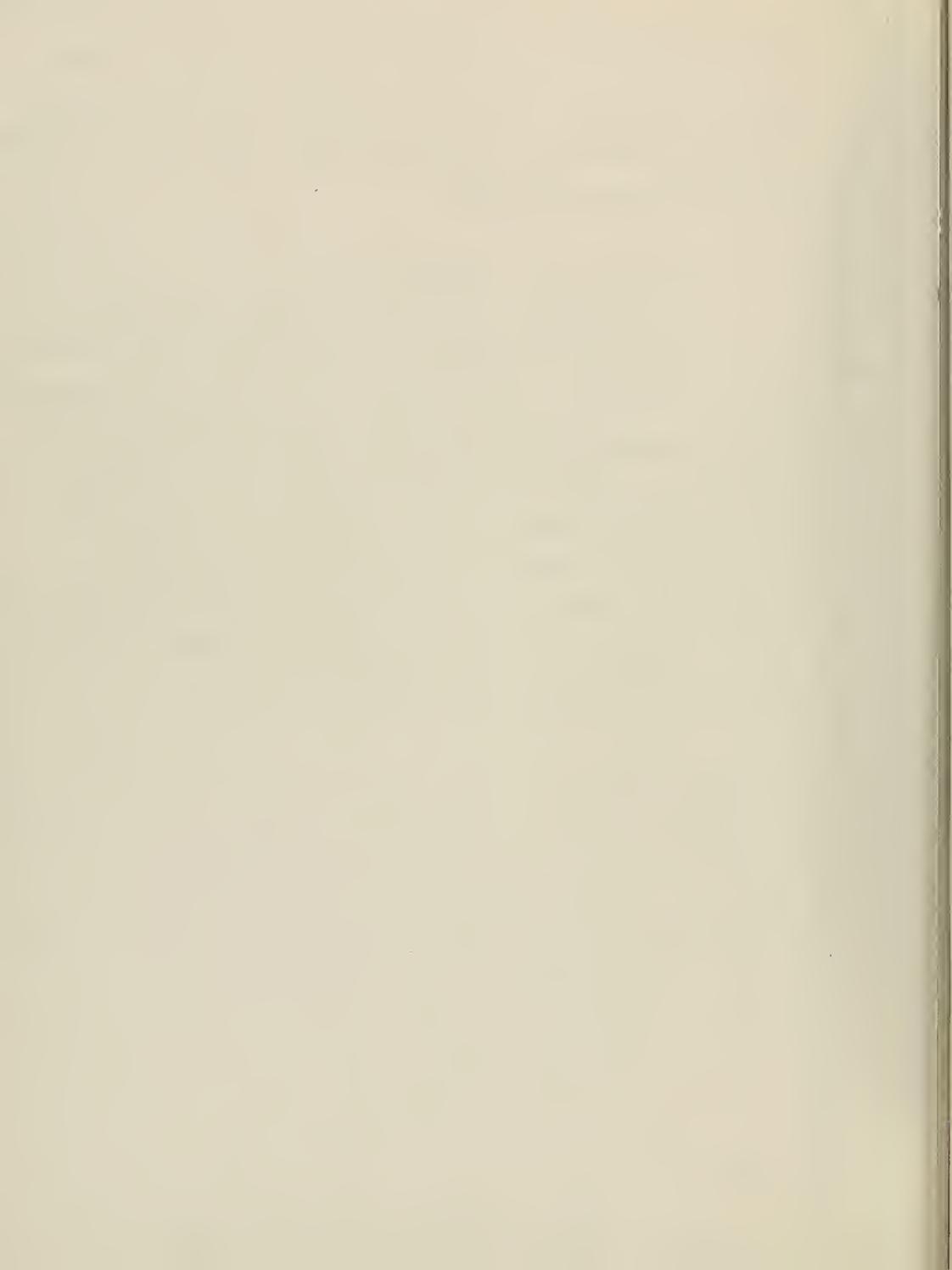
17 Section 11.14 Absence of Parties

18 (a) If a party fails to appear at a properly
19 noticed hearing or fails to file a written excuse for
20 non-appearance prior to a properly noticed hearing, the hearing
21 officer may, as appropriate: continue the case, decide the case
22 on the record in accordance with these rules; dismiss the case
23 with prejudice; or proceed to a hearing on the merits.

(b) If the party who does not appear to the hearing appeal substantially on the fact that notice of the hearing was not received, the appellant must attach a declaration under penalty of perjury on a form provided by the Rent Board. The declaration must include facts to support their contention that the notice was not received.

Section 11.18 Burden of Proof

In any proceeding before the Board or any hearing officer thereof, the landlord shall have the burden of proving that an increase in rent in excess of [7 percent] the allowable annual rent increase is justified. The tenant shall have the burden of proving: (1) [Whether or not] there has been an increase in the dollar amount of the rent in excess of the limitations; (2) there has been a rent increase due to reduction in housing services without a corresponding reduction in rent; and/or (3) a failure to perform ordinary maintenance and repair as required under state and local law.



Work

For purposes of an eviction under Section 37.9(a)(11) of the Ordinance, the capital improvement and/or rehabilitation work to be done must involve work that would make the unit hazardous, unhealthy, and/or uninhabitable while work is in progress. The tenants shall be given the opportunity to work out a schedule so that they remain (if they wish to) while the work is being done, if feasible. Copies of all necessary permits, a description of work to be done, a reasonable approximate date when the tenant can reoccupy the unit shall be given to the tenant prior to or along with the notice to vacate.

[If adopted, current Section 12.15 would be renumbered to 12.16.]



R52
#1

2/25/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

February 25, 1986

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Public Hearing - Proposed Changes to Rules and Regulations
- V. Communications
- VI. Director's Report
- VII. Old Business - 1538 Grant St. Settlement [F118-40(E)]
- VIII. New Business
- IX. Calendar Items
- X. Remarks from the Public
- XI. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 25, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

2.
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5/86
I. Call to Order

President Payne called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Carrico, Chan, Chinchilla,
Curran, Marshall, Payne

Commissioners not Present: Alviar, Jackson

Staff Present: Hernandez, Wolf, Wicks

Commissioner How appeared on the record at 5:47 p.m.

Commissioner Waller appeared on the record at 5:48 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of February 18,
1986, as written. (Chinchilla/Curran:
5-0)

IV. Communications

- A. Don Hesse of the Human Rights Commission provided the Commissioners with calandars with an equal housing opportunity theme.
- B. The Commissioners approved and signed the eviction decision for 2724 - 24th Street.
- C. A letter requesting a postponement of the appeal hearing on 147 Crown Court was presented. The Commissioners granted the request.

V. Consideration of Allegations of Wrongful Evictions

Staff Report

- A. Eviction Unit Supervisor Alicia Wicks reported that the parties for 1538 Grant Ave. had not been able to reach a settlement. The Commissioners will continue their deliberations at the March 4, 1986 meeting.
- B. Eviction Summary and Recommendation

1865 Powell St. [G144-38(E)]

Tenants Gavin [and Holmes] filed for both wrongful eviction and alteration of his original rental agreement. In August 1982, tenant Gavin received a defective eviction notice for substantial rehabilitation. Tenant sent written acknowledgment, pointed out the defective nature

of the notice, and stated that although he did not believe the work necessitated removal, they would do so for the convenience of the owner. The tenants vacated in September 1982. Their rent was \$191.53.

Nearly three years later, July 1985, tenant Gavin was sent a notice that the unit was ready for reoccupancy at a cost of \$523 per month. Tenant Gavin responded that he and tenant Holmes would move back into the unit. In correspondence to follow, landlord refused to allow tenant Holmes to reoccupy, stating that he did not recognize the alleged oral agreement with the previous owner which had covered both tenants from the inception of the tenancy. Owners insisted they knew nothing about Mr. Holmes' tenancy but admitted they had never made an effort to ascertain the identify or number of persons residing in this four-bedroom unit and had inherited no records on this issue when they purchased the property.

At the hearing, tenants submitted proof of the joint tenancy. They further stated that friends in the neighborhood--and their own observation--suggested that their unit had been rented to some other party. However, the unit was offered, but to Mr. Gavin only.

Hearing Officer found both tenants to be approved tenants and, as such, were both entitled to resume their tenancies in the unit.

Recommendation: Hearing Officer and Staff recommend that a strong letter be sent to the landlords, cautioning them against refusing to allow these tenants to reoccupy or evicting them after they move in. If the owners persist in their actions, it is recommended the Board refer the case to the District Attorney and/or City Attorney.

MSC: To approve the recommendation of the
Hearing Officer and staff.
(Marshall/Curran: 5-0)

VI. Director's Report

Executive Director Ricardo Hernandez reported that Supervisor Louise Renne has agreed to sponsor an amendment which would allow the Rent Board a \$5 increase in the filing fees for petitions; and an extension of the appointment period for Rent Board Commissioners from fifteen months to two years.

VII. New Business

- A. President Ralph Payne informed the Board that the Mayor has asked all commission heads to present her a detailed

statement of the agency objectives. Accordingly, the Commissioners agreed to hold a special meeting on March 15 to prepare a report for the Mayor.

- B. Commissioner Payne also relayed the Mayor's request that all Commissioners write the President and members of the House Budget Committee to ask that revenue-sharing programs not be cut.

VIII. Public Hearing

A public hearing, scheduled to allow the community to express their views about proposed Rules and Regulations changes, began at 6:00 p.m.

The following persons spoke to the issue of the Rules changes and/or general landlord-tenant concerns:

Name	Affiliation
Joe Lacey	Old St. Mary's Housing
H. Rudnick	Old St. Mary's Housing
J. Navarro	Old St. Mary's Housing
Ricardo Callejo	Attorney, Parkmerced Residents Organization
Lundis Whistler	Attorney, Stones Tenants Association
Russ Flynn	Coalition for Better Housing
Nancy Lenvin	Attorney
Bill Talmage	DeWolf Realty
Ann Stoylen	Old St. Mary's Housing
Robert DeVries	Attorney
Bill Robinson	Attorney, Affordable Housing Alliance
Bill Daley	S.F. Housing & Tenants Council
Steve Brown	Professional Property Managers Association
Renetta Southcott	Landlord
Debbie Lim	Attorney, Asian Law Caucus
Ed Lee	Attorney, Asian Law Caucus
Jim Hirsch	Landlord
Lorraine Louie	Chinatown Coalition for Better Housing
John Laskin	Tenant
Tak Chang	Neighborhood Housing
Kathleen Baker	Old St. Mary's Housing
Shiela Star	2090 Broadway Tenants Association
Mary Lou Thoenges	Old St. Mary's Housing
Joseph Bravo	Apartment House Association
Robert Imhoff	Landmark Realty
Roger Varela	Tenant
James Fabris	S.F. Board of Realtors

Among the topics discussed were the following:

1. Whether or not prospective debt service should be allowed.

2. The need to protect families from rent increases for children vs. the need for an owner to be compensated for increased expenses and to control the number of tenants in a unit.
3. The financial, physical, and emotional hardship large rent increases and evictions work on seniors and others on fixed incomes.
4. Concerns about the changes in the proposed utility pass-through Rule.
5. The Problem of unnecessary capital improvements that force tenants to vacate because of related rent increases.
6. The unique difficulties rent stabilization presents for small landlords.
7. The need for a formula to allow owners to increase the rent when additional tenants wish to reside in a unit, rather than evict for breach of the allowed number of residents.
8. That tenants should not have to meet a statute of limitations for decrease in service awards vs. the need to set guidelines for the "extraordinary circumstances" part of the proposed rule.
9. That a special mechanism should be set up to allow owners to directly pass through the costs of increased insurance, water, garbage, and sewer charges.

The public hearing was closed at 8:15 p.m.

IX. Calendar Items

March 4, 1986

8 Appeal Considerations
1 Appeal Hearing: 3570 - 18th St. [G036-31(A)]
Old Business: Updates on: 2807-09 Bryant St.
1538 Grant Ave.

March 11, 1986

6 Appeal Considerations

March 18, 1986

7 Appeal Considerations
1 Appeal Hearing: 786 Dolores St. [G38-3(A)]

X. Adjournment

President Payne adjourned the meeting at 8:17 p.m.

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≡ NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

≡ March 4, 1986 at 5:30

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

MAR 4 1986

SAN FRANCISCO
PUBLIC LIBRARY

- A. G038-11(A) 327 Parnassus Ave.
- B. G038-12(A) 2135 California St. #3
- C. G038-16(A) 2135 California St. #2
- D. G038-18(A) 2140 Pacific Ave. #302
- E. G040-5(A) 2090 Broadway Ave.
- F. G040-2(A) 565 Geary St. #304
- G. G040-3(A) 295 Guerrero St. #7
- H. G040-4(A) 28 Pinto Ave.
- I. G040-6(A) 900 Chestnut St. #210
- J. G040-8(A) 754 Church St.

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - A. Hearings

VIII. Old Business

Update on: A. 2807-09 Bryant St. [F116-23(E) &
F116-7(E)]
B. 1538 Grant Ave. [G118-40(E)]

- IX. New Business
- X. Appeal Hearing
 - 1. 3570 - 18th St. [G036-31(A)] Original Consideration
January 21, 1986.
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 4, 1986, 5:30 p.m. at the State Building, 350 McAllister Street, room 1158

DOCUMENTS DEPT.

I. Call to Order

MAR 11 1986

Vice President Marshall called the meeting to order at 5:45 p.m.
SAN FRANCISCO PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Carrico; Chan; Curran; How;
Jackson; Marshall.
Commissioners not Present: Alviar; Chinchilla; Payne.
Staff Present: Hernandez; O'Hearn; Wicks.

Commissioner Waller appeared on the record at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of February 25, 1986,
as written. (Curran/Carrico: 5-0)

IV. Consideration of Appeals

A. 327 Parnassus Ave. [G38-11(A)]

The tenant filed an appeal 82 days after issuance of the Hearing Officer's Decision denying his rent decrease petition.

MSC: To deny the appeal. (Curran/Chan: 5-0)

B. 2135 California St. #3 [G38-12(A)]
C. 2135 California St. #2 [G38-16(A)]

The hearing officer granted a \$50 decrease for the loss of garage space. The landlord had reduced the rent for unit 2 by this amount when he took away the garage from that tenant. The landlord appealed that portion of the decision applied to unit 3 and the tenant of unit 2 appealed that portion applied to unit 2.

MSC: To deny both of the appeals.
(Carrico/Jackson: 5-0)

D. 2140 Pacific Ave. #302 [G38-18(A)]

After receiving a notice to pay rent dated August 14, 1985, the tenant filed a petition on August 16, 1985 alleging a substantial decrease in service and a failure to repair and maintain with regard to the stove, linoleum, dishwasher and kitchen drain. The hearing officer, by decision issued on December 31, 1985, awarded a 5% rent decrease based on the stove and dishwasher, 5% on the linoleum and 3 1/2% on the kitchen drain.

The notice of hearing was sent to the landlord's address listed on the petition rather than the landlord's address stated on the notice to pay rent. The landlord did not appear at the hearing and on appeal he claims that neither he nor his employees received notice of the hearing.

The landlord further contends on appeal that the tenant's allegations are not true. After submitting his appeal, the landlord additionally claimed that the matter is subject to the principles of res judicata such that a January 28, 1986 Superior Court Judgment for unlawful detainer previously determined the same issues raised in the tenant's petition.

MSC: To remand the case to another hearing officer for another hearing. (Curran/Chan: 5-0)

E. 2090 Broadway Ave. [G40-5(A)]

The hearing officer denied the landlord's rent increase petition based on inadequate verification of increased operating and maintenance expenses. Following two hearings, the record was held open for one week in order for the landlord to submit evidence of increased debt service. The landlord attached such evidence to his appeal, filed 37 days after issuance of the decision.

MSC: To deny the appeal. (Chan/Curran: 3-2; Carrico and Jackson dissenting.)

F. 565 Geary St. #304 [G40-2(A)]

The landlord appealed the hearing officer's rent decrease award of 2% for lack of janitorial services and 10% for lack of hot water.

MSC(1): To excuse Commissioner Carrico from voting on this appeal due to his lack of receipt of the appeal materials. (Chan/Curran: 5-0)

MSW: To deny the appeal. (Chan/Marshall)

MSC(2): To remand the case for further hearing before a hearing officer. (Chan/Marshall: 5-0)

G. 295 Guerrero St. #7 [G40-3(A)]

This is the third appeal in this case concerning a tenant petition filed on June 6, 1985 based on substantial decrease in services and failure to maintain and repair. The first decision was issued August 22, 1985 and appealed by the landlord [Appeal No. G32-30(A)]. On October 1, 1985 the Board accepted the appeal and remanded the case to the same hearing officer for a compliance hearing held on October 17, 1985.

The hearing officer's decision on remand was issued on December 2, 1985 and appealed by the tenant [Appeal No. G36-40(A)]. On January 28, 1986 the Board again remanded the case to the same hearing officer with instructions to restore the 10% rent decrease based on lack of hot water and to consider the tenant's evidence submitted after the remand hearing, but before the record closed. The second remand hearing is scheduled for March 6, 1986.

The instant appeal [G40-3(A)] was filed on January 21, 1986, 50 days after the decision was mailed. The landlord now disputes the compliance determination of the hearing officer's decision on remand.

MSC: To deny the appeal. (Chan/Curran: 5-0)

H. 28 Pinto Avenue [G40-4(A)]

The tenant filed a petition contesting a rent increase from \$477.34 to \$607 imposed by the landlord when the tenant changed roommates. The hearing officer found the increase null and void. The landlord, Parkmerced Co., appealed claiming that even though the tenant had lived at the premises since 1981 and paid the rent, it was unaware of her occupancy since rent checks go directly to the landlord's bank.

MSC: To deny the appeal. (Curran/Chan: 4-1,
Carrico dissenting.)

I. 900 Chestnut St. #210 [G40-6(A)]

Determining that the reduction of housing services (management, security and porter services) was insubstantial, the hearing officer denied the tenant's petition for rent decrease. The tenant appealed claiming varius mistatements of fact.

Vice President Marshall noted that the hearing officer mistated the law (at p. 3) by misinterpreting the Board's policy on the cut off date for past reductions in service and (at p. 5) by failing to clarify the appropriate effect of the decision on future petitions filed by this tenant. Board discussion ensued concerning different interpretations of the cut off policy (Directive 1983-2).

MSC: To deny the appeal. (Curran/Chan: 4-1,
Marshall dissenting.)

J. 754 Church St. [G40-8(A)]

The hearing officer awarded the tenant a \$60 rent decrease for each month from August 1985 until the landlord restored the tenant's use of garage. The landlord appealed objecting to the amount of the decrease.

MSC: To deny the appeal. (Carrico/Curran: 5-0)

V. Consideration of Allegations of Wrongful Evictions

Eviction Unit Supervisor Alicia Wicks reported on the following cases:

A. 1415 Waller St. #4 [G146-41(E)]

The hearing officer found this eviction attempt wrongful and in bad faith because:

- (1) No valid eviction notice was ever served despite invitations to call the Rent Board for the necessary information.
- (2) The tenant was asked to sign a new rental agreement only 35 days before receiving the eviction document.
- (3) A vacant unit was still available less than a week before the eviction notice was served, but no effort was made by the owners to either occupy this unit or offer it to the tenant.
- (4) Three of the four reasons stated for eviction were either obviously false or insufficient.
- (5) The landlords repeatedly called the tenant to tell him to move, shut off the electricity once, and became angry when he asked for repairs.

The hearing officer and staff recommended that the Board send the owners a cautionary letter and consider taking further action if the eviction is pursued.

B. 24 Woodward St. [G146-21(E)]

The hearing officer found this eviction attempt wrongful for the following reasons:

- (1) Although the landlord did not send proper written notice, the tenants immediately followed the landlord's request concerning alleged waste and damage.
- (2) The November eviction notice suggests the real motivation may have been to make the property more attractive for sale with a vacant unit. This is supported by the fact that despite the tenants' immediate remedy of any outstanding problems, another eviction notice was served three weeks later.

The hearing officer and staff recommended that the Board send a cautionary letter to the landlord, with a copy to the realtor, advising him against proceeding with the eviction and that the Board monitor the case and consider further steps if the eviction is pursued.

MSC: To adopt the recommendations on both of the above cases.
(Curran/Jackson: 5-0)
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VI. Old Business

The Board recessed the meeting for a closed session pursuant to Government Code Section 54956.9(c).

A. 1538 Grant Ave. [F118-40(E)]

The tenant filed a report of alleged wrongful eviction and the Board subsequently held a hearing on this case at its February 4, 1986 meeting. The primary issue is whether the landlord is acting in good faith in her attempts to recover possession for her own use and occupancy as her principal place of residence. Following the hearing, the Board continued its consideration of the case in order to allow the parties time to negotiate a settlement.

The parties have since reported that they are unable to settle the matter. The Board made a finding of wrongful eviction and agreed to monitor the case.

B. 2807-09 Bryant Street [F116-23(E) & F116-7(E)]

The Board held a hearing on these consolidated eviction cases on January 21, 1986. The primary issue concerns the landlord's good faith in evicting the tenants on the ground of rehabilitation which displaced the tenants for 8 months instead of 3 months as originally estimated. During discussions following the Board's hearing, the landlord agreed to allow the tenants to re-occupy by March 1, 1986. The Board therefore postponed action on this matter until after that date.

One of the tenants now re-occupies a unit and the other unit is not ready for re-occupancy. The parties dispute both the necessity of the work and whether it was done. Also, the landlord has requested rent increases based on the work without first applying to the Board for approval of the increase.

MSC: To remand the case for a compliance hearing before a hearing officer. (Curran/Chan: 5-0)

After voting on the motion, the Board returned to its public meeting.

VII. Appeal Hearing

3570 18th Street [G36-31(A)]

On January 21, 1986 the Board accepted the landlord's appeal in this case based on her claim that the unit was decontrolled by the death of the tenant's mother in January 1985. The tenant's mother had lived there for the previous thirty years. By this petition filed in September 1985, the landlord requests permission to increase the rent over \$283.

At the outset of the hearing, the Commissioners noted that the issue was limited to their consideration of hardship. Both the landlord and tenant appeared, as well as their representatives and witnesses. The landlord primarily argued that she does not want to accept the tenant except under the terms of a new rental agreement allowing a rent increase. The tenant argued that the landlord's claimed financial or other hardship is insufficient grounds to justify a rent increase under the Ordinance.

After the hearing closed, the Board discussed various interpretations of "hardship." Considerations included (1) whether it is a basis for an increase or a basis for accepting an appeal, (2) whether it applies to the financial status of a building or of a particular landlord, and (3) whether it refers to the equitable application of the Ordinance to a set of particular facts. Reaching no consensus, the Board continued its deliberations to the next Board meeting.

VIII. Communications

- A. Letter from President Payne.
- B. Ordinance No. 19-86 signed by the mayor on February 7, 1986 and sponsored by Supervisor Silver.

C. Editorial by Warren Hinkle on February 24, 1986 in the San Francisco Examiner.

D. Eviction Determination of the Rent Board Commissioners for Case No. F114-26(E) concerning 2724 - 24th Street.

E. Slip opinion of the U.S. Supreme Court in the Fisher case.

F. Decision of the Commissioners on Administrative Appeal of Court-Ordered Remand Decision of Hearing Officer in Case No. E146-6(P) Appeal No. G36-6(A) for 250 Taylor St.

MSC: To approve the decision. (Curran/Chan: 5-0)

IX. Director's Report

The director reported on the increased numbers of petitions filed over the past month. He also informed the Board that the eviction unit supervisor, Alicia Wicks, spoke last week at the City College property management class and that he would be speaking on March 6, 1986 at a neighborhood business conference. In conclusion, he advised the Board of a ruling by the Superior Court in a writ of mandate filed by Jack Klein.

X. Calendar Items

March 11, 1986

6 Appeal Considerations

Old Business: (1) discussion of proposed rule changes and (2) determination on Appeal Case No. G36-31(A)

March 15, 1986 Special Meeting

Preparation of statement of agency objectives for a report to the mayor.

March 18, 1986

13 Appeal Considerations

1 Appeal Hearing: 786 Dolores St. [G38-3(A)]

XI. Adjournment

Vice President Marshall adjourned the meeting at 9:06 p.m.



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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

March 11, 1986

State Building, 350 McAllister St. #1158

AGENDA

- | | | |
|-------|--|---------------------------------|
| I. | Call to Order | DOCUMENTS DEPT. |
| II | Roll Call | MAR 11 1986 |
| III. | Approval of the Minutes | SAN FRANCISCO
PUBLIC LIBRARY |
| IV. | Consideration of Appeals | |
| A. | 107 Noe Street [G40-09(A)] | |
| B. | 130 Eddy Street [G40-10(A)] | |
| C. | 149 San Jose Avenue [G40-11(A)] | |
| D. | 54 - 4th Street [G40-12(A)] (Landlord) | |
| E. | 54 - 4th Street [G40-13(A)] (Tenant) | |
| F. | 1132 Masonic Avenue [G40-14(A)] | |
| V. | Communications | |
| VI. | Director's Report | |
| VII. | Consideration of Allegations of Wrongful Evictions | |
| VIII. | Old Business | |
| A. | Discussion of Proposed Rule Changes | |
| B. | Update on Appeal G36-31(A) concerning 3570 18th St.
heard before Board on March 4, 1986 | |
| IX. | New Business | |
| X. | Calendar Items | |
| XI. | Remarks from the Public | |
| XII. | Adjournment | |

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 11, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar, Carrico, Chan,
Chinchilla, Curran, Payne

Commissioners not Present: Jackson

Staff Present: Wicks, Wolf

Commissioner Marshall appeared on the record at 6:43 pm; Commissioner Waller at 6:45 pm; Commissioner How at 6:48 pm. Commissioners Alviar and Chinchilla went off the record at 6:47 pm; Commissioner Chan at 8:22 pm.

III. Approval of the Minutes

MSC: To approve the Minutes of March 4, 1986.
(Alviar/Carrico: 4-0)

IV. Consideration of Appeals

A. 107 Noe Street [G40-09(A)]

Tenant filed an appeal pursuant to a Hearing Officer's decision that he was a new tenant, subject to vacancy decontrol. The subject tenant took up residence under a six-month agreement that allowed him to temporarily replace one of the existing tenants. After more than eight months, it appeared all original tenants had vacated. Owner gave the subject tenant a \$200 rent increase and listed improvement work which would be performed, making it clear that the six-month agreement was terminated and a lower increase was being imposed because the subject tenant had been a good renter. Tenant agreed in writing to the increase and asked for repairs. Tenant appealed on the following issues: 1.) vacancy decontrol was not triggered; 2.) owner was not entitled to an increase until the agreed repairs were completed; 3.) a second increase for \$500 was given after landlords received the decision.

MSC: To hear the case at the Board level.
(Chinchilla/Alviar: 5-0)

B. 130 Eddy [G40-10(A)]

One tenant appealed the Hearing Officer's decision that allowed a 40% decrease in service award for most tenants but

DOCUMENTS DEPT.

MAR 14 1986

SAN FRANCISCO
PUBLIC LIBRARY

denied that award for "those tenants who have failed to pay their rent in the recent past." Appealing tenant indicated that this was an incorrect application of the law.

MSC: To remand the case to a new Hearing Officer with instructions to offset tenants' awards for decrease in services against any back rent which may be owing.
(Carrico/Alviar: 5-0)

C. 149 San Jose Ave. [G40-11(A)]

Current owners appealed the Hearing Officer's determination that declared null and void a rent increase from \$160 to \$900. The increase was to take effect December 18, 1985; former owner vacated the premises approximately November 15, 1985, two days after transferring the property by grant deed to current owners. The purchase agreement indicated that previous owner agreed to raise the rent on the subject tenancy, as a condition of sale. Hearing Officer disallowed the increase since the property was no longer owner-occupied exempt either when the increase notice was served or when it became effective. Current landlords argued on appeal that the property was still exempt from the Ordinance and that they were not responsible for the actions of the previous owner.

MSC: To deny the appeal.
(Chinchilla/Marshall: 3-2; Commissioners Carrico and Payne dissenting)

D. 54-4th Street, #714 [G40-12(A) and G40-13(A)]

Both landlord and tenant appealed Hearing Officer's decision that allowed tenant a decrease in service award of \$2.50 per day for loss of phone service for ten days; that disallowed an award for restriction on visiting hours for guests of tenant; and refunded tenant the amount of hotel tax imposed after tenant had resided in his unit 35 days. Landlord appealed on the basis that tenant had abandoned the property approximately two weeks after the hearing, with an unpaid rent balance. Tenant appealed because the decision listed weekly charges as monthly charges; and that the Hearing Officer had not considered that tenant had been locked out by landlord; that tenant's quiet enjoyment was disrupted when owner opened a discotheque in the building; and that the manager improperly impounded some of tenant's personal property.

MSC¹: To excuse Commissioner Carrico from this consideration.
(Marshall/Chinchilla: 5-0)

MSC²: To make the necessary technical corrections to reflect that the tenant's rent (\$80) and the hotel tax (\$7.80) are weekly.
(Marshall/Chinchilla: 5-0)

MSC³: To deny the landlord's appeal
(Marshall/Chinchilla: 5-0)

E. 1132 Masonic [G40-14(A)]

Landlord appealed Hearing Officer's ruling that declared null and void three previous rent increases which were improper as to date of imposition, amount, or both. Owner did not appear for the hearing. Owner based the appeal on the fact that a portion of the increase was to pay for increased operating and maintenance expenses; and that another portion was to accommodate tenant in a complex roommate replacement situation; and that the award granted would work a great financial hardship on her.

MSC¹: To excuse Commissioner Chinchilla from this consideration.
(Carrico/Alviar: 5-0)

MSC²: To remand the case to another Hearing Officer for a new hearing.
(Carrico/Alviar: 5-0)

V.

COMMUNICATIONS

- A. The Coalition for Better Housing wrote to the Commissioners urging them to adopt proposed Rules change version 1, Rule 6.13.
- B. A letter from Stonestown management was received in response to the Commissioners' letter regarding notices for increases for interior painting. Commissioner Chinchilla will work with Commissioner Payne in drafting a response.
- C. The Chairperson of Old St. Mary's Housing Committee provided the Commissioners with copies of an article recently published in Renter's Voice.
- D. The counsel for the San Francisco Apartment House Owners Association wrote to encourage the Board to consider insurance as part of the operating and maintenance expense package.
- E. The Commissioners received and signed their eviction determination pursuant to the hearing on 2807-2809 Bryant St. [F116-07(E) and F116-23(E)].

VI.

CONSIDERATION OF ALLEGATIONS OF WRONGFUL EVICTION

Staff Report: 135 Albion St. #A --G148-41(E)

The original tenancy of this 3-bedroom flat began December 1983. Occupancy was limited to the two original tenants, with written permission required for substitutions. The tenant at issue was not a party to this agreement. There were several changes of roommates, apparently without informing the owner. The subject tenant was not aware of the rental agreement and did not know that any of the remaining tenants were not approved. Subject tenant wanted to be "legal" and left messages on the owner's answering machine which were not returned. Tenant wrote owner asking for an application, which he received, completed, and returned.

An addendum was returned, labeling the remaining original tenant as "original co-tenant" and the subject tenant as a "secondary co-tenant." It stated that the unit would be decontrolled when the original tenants had all vacated; notice of removal by the original tenant was required. Another tenant who had resided there for several months attempted to become an approved tenant but was refused, although the owner allowed him to remain there in violation of the number of tenants and approval aspects of the rental agreement.

In about June 1985 the last "original" tenant indicated to his roommates that he intended to move; he apparently did not inform the owner. The subject tenant did not take on this responsibility since he assumed the vacating tenant would do so. On August 12, 1985, petitioning tenant wrote landlord with a long list of repair needs since his previous efforts on the phone had gone ignored. On August 20, 1985, owner served an eviction notice on the remaining tenants, including petitioner, for:

1. Breach by not informing owner of removal of last original tenant;
2. Violation of the number of tenants allowed under the agreement;
3. Existence of unapproved subtenants.

Hearing Officer found an attempted wrongful eviction for the following reasons:

1. No written warning to quit or cure was ever given;
2. Subject tenant could not reasonably be responsible for notifying landlord that another tenant was vacating;

3. The owner waived the provision of only two tenants since the existence of three was known for some time;

4. The obligation of written notification of subletting was not applicable to the petitioner since he was approved in writing;

5. The eviction notice followed closely after petitioner sent a written request for repairs to improve the habitability of the unit. Therefore retaliation appears to be the dominant motive, not the stated breaches, which owner had apparently allowed to exist for some time.

Recommendation: Hearing Officer and Staff recommend that the owner be sent a cautionary letter detailing the provisions against retaliatory eviction and the legal effects of waiver of provisions of a rental agreement.

MSC: To send a letter to the landlord indicating that no grounds exist for an eviction and informing the owner of the preferable remedy of imposing an allowable rent increase.
(Carrico/Alviar: 4-1; Commissioner Chinchilla dissenting)

VII: OLD BUSINESS

A. The parties from 3570-18th Street (Originally heard March 4, 1986) reported to the Commissioners that they had not been able to reach a settlement, as previously requested by the Board. (Refer to the Minutes of March 4, 1986) After discussing the testimony and evidence received, the Commissioners voted as follows:

MSC¹: To excuse Commissioners Alviar and Chinchilla from this vote.
(Marshall/Carrico: 5-0)

MSC²: To deny the rent increase.
(Marshall/Curran: 3-2; Commissioners Carrico and Payne dissenting)

B. Discussion of Proposed Rules changes: The Commissioners discussed wording for various of the proposed Rules changes. It was decided to defer further discussion on several proposals to see if they could be included in the special meeting scheduled for March 15, 1986. The following proposals were passed:

[Note: All Rules and Regulations changes are based on the draft dated February 6, 1986.]

1.) 1.1 Anniversary Date

MSC: To accept as written.
(Carrico/Marshall: 5-0).

2.) 2.13 Board Meetings

MSC: To approve the following language:

"The Board shall meet on the first Tuesday of each month at 5:30 p.m. at Room 1158, the State Building, 350 McAllister Street, San Francisco, California, 94102 or as otherwise designated by the Board; except when that day falls on a legal holiday or election day, the meeting shall be held on the next Tuesday which is neither a legal holiday nor an election day. The Board shall meet at such other times as necessary to stay current with the workload or tend to administrative matters. Special meetings may be held any time, upon compliance with Charter provision 3.500. Meetings shall be open to the public, except that any member may require that matters for which meetings in executive session are allowed by law be discussed and considered in executive session, provided all votes of the members shall be matters of public record."

(Chan/Marshall: 5-0).

3.) 4.13 Banking

The following proposed language was suggested but not voted on. [Additions to the February 6, 1986 draft are underlined.]

"(a) A landlord who refrains from imposing an annual rent increase, or any portion thereof, may accumulate said increase and impose that amount on or after the tenant's subsequent rent increase anniversary date; however, the rent may be increase only one time every twelve (12) months. This banked amount may only be given at the time, an annual increase. Only those increases which could have been imposed on, or subsequent to, April 1, 1982, may be accumulated. A full 12 months must have elapsed from the date that an annual rent increase or portion thereof could have been imposed before this banking section becomes applicable. Banked increases shall not be compounded."

4.) 10.10(c) Decrease in Services

It was decided to defer the decision on final wording on this section, with the exception of the following addition:

MSC: To add this wording at the end of Section 10.10(c):

"This provision shall not limit any civil remedies that would otherwise be available to the tenant or landlord."
(Chan/Marshall: 3-2; Commissioners Carrico and Payne dissenting).

5.) 11.14 Absence of the Parties

MSC: To approve the addition of Section 11.14(b) as written.
(Marshall/Carrico: 5-0).

6.) 11.18 Burden of Proof

MSC: To adopt this section as written.
(Marshall/Chan: 5-0).

- C. Commissioner Payne discussed his memo on federal budget cutbacks, copies of which he distributed to the Board.

VIII. New Business

- A. Commissioner Curran disclosed a possible conflict of interest that might arise in his capacity as counsel to USF.
- B. Commissioner Curran mentioned some concerns about making complete findings of fact in all Rent Board written decisions.

IX. Calendar Items

March 15, 1986

Special meeting: 9:00 a.m., 170 Fell St., Room 17

March 18, 1986

13 appeal considerations

1 appeal hearing: 786 Dolores [G38-3(A) first considered February 4, 1986]

March 25, 1986

3 appeal considerations

3 appeal hearings

876 Haight St. [G38-5(A) first considered February 11, 1986]

334 Precita Ave. [G36-37(A) first considered January 1, 1986]

107 Noe St. [G40-9(A) first considered February 11, 1986]

X. Adjournment

President Payne adjourned the meeting at 8:30 p.m.



NOTICE OF THE SPECIAL MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Saturday,
March 15, 1986 at 9:00 a.m.

Rent Board, 170 Fell St., Room 17

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes of March 11, 1986
- IV. Board Discussion of a Two Year Plan for the Rent Board
- V. Discussion of Proposed Rules Changes (tentative)
- VI. Remarks from the Public
- VII. Adjournment

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MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Saturday, March 15, 1986, at 5:30 p.m. at 170 Fell Street Room 16

I. Call to Order

President Payne called the meeting to order at 9:30 a.m.

II. Roll Call

Commissioners Present: Chan, Chinchilla, Curran,
Marshall, Payne

Commissioners not Present: Alviar, How, Jackson, Waller
Staff Present: Hernandez, Wicks, Wolf

Commissioner Carrico appeared on the record at 10:20 a.m.

III. Approval of the Minutes

MSC: To continue the approval of the Minutes of
March 11, 1986 until March 18, 1986.
(Chinchilla/Marshall: 4-0).

IV. Board Discussion of a Two Year Plan for the Rent Board

A lively three hour discussion took place in which the Commissioners delved into the key issues affecting or which could affect the Board in the future. Topics discussed covered those with legislative, budgetary, administrative and judicial impact.

Specific topics centered on improved wrongful eviction monitoring and prosecution, community outreach, and public education. Many ideas for improved operation were proposed and debated. President Payne took notes of all the options for future implementation.

V. Adjournment

President Payne adjourned the meeting at 12:10 p.m.

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3/18/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
March 18, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order DOCUMENTS DEPT.

II. Roll Call MAR 14 1986

III. Approval of the Minutes SAN FRANCISCO
PUBLIC LIBRARY

IV. Consideration of Appeals

- | | |
|----------------------------------|---------------------------------|
| A. 530 Hickory St. [G40-15A] | H. 1946 Grove St. [G40-22A] |
| B. 521 Noe St. [G40-16A] | I. 59 Lupine St. #601 [G40-23A] |
| C. 1325 Hyde St. #5 [G40-17A] | J. 3331 26th St. [G40-24A] |
| D. 1275 Greenwich #602 [G40-18A] | K. 3329 26th St. [G40-25A] |
| E. 244 Gratton St. #6 [G40-19A] | L. 1555 Church St. [G40-26A] |
| F. 48 Haight St. #6 [G40-20A] | M. 143 San Jose Ave. [G40-26A] |
| G. 620 Jones St. #908 [G40-21A] | |

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Eviction

None

VIII. Old Business

IX. New Business

X. Appeal Hearing

1 p.m. 1. 786 Dolores St. (G38-3(A), first considered February 4, 1986)

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

3/13/86:ap

0673A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 18, 1986, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:43 p.m.

II. Roll Call

Commissioners Present: Alviar, Carrico, Marshall, Payne, Waller

Commissioners not Present: Chinchilla, Curran, How, Jackson
Staff Present: Hernandez, Wolf

Commissioner Chan appeared on the record at 5:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 11, 1986 with the following corrections: Page 6, item 3 (a) should read: "however, the rent may be increased only one time every twelve (12) months."; and page 7, Calendar Items, 334 Precita Ave., should read: "first considered January 21, 1986." (Alviar/Marshall: 5-0).

DOCUMENTS DEPT.

MAR 21 1986
SAN FRANCISCO
PUBLIC LIBRARY

MSC: To approve the Minutes of March 15, 1986. (Carrico/Marshall: 5-0).

IV. Consideration of Appeals

A. 530 Hickory St. [G40-15(A)]

Landlord failed to appear at a hearing on tenant's petition for: failure to make requested repairs; tenant's allegation that he was being charged utility bills for construction work in the basement; and transfer of the garbage bill, previously paid by the landlord, to his name. Landlord and tenant entered into a Stipulated Judgment in Municipal Court, and landlord alleges that tenant agreed to drop his action at the Rent Board. Landlord also maintains that several of tenant's allegations are untrue, that the Judgment is controlling regarding the amount of rent owed, and that she would have attended the hearing except for her belief that the complaint would be dropped.

MSC: To remand this case to the same Hearing Officer for a new hearing. (Carrico/Alviar: 4-0).

B. 521 Noe St. [G40-16(A)]

Tenant petitioned and received awards for: landlord's failure to make requested repairs; decreased housing services; and past increases over the guidelines. Landlord's appeal is based on his belief that the Hearing Officer abused his discretion, as the reductions were based on required repairs to the unit, and his assertion that the landlord should only have to repay the excessive portions of the rent increases.

MSC: To deny this appeal. (Carrico/Marshall: 4-1; Payne dissenting).

C. 1325 Hyde St., #5 [G40-17(A)]

Tenant petitioned regarding an increase over the guidelines in a share rental situation wherein both roommates had separate rental agreements with landlord. Additionally, tenant received a one-time decreased services award due to her having to absorb the advertising costs of obtaining a new roommate, which constituted a material change in the terms of her tenancy. In her appeal, landlord maintains that the Hearing Officer misunderstood the facts of the case in that the total rent on the unit should not have been considered, and that the parties had arrived at a different resolution by the conclusion of the hearing.

MSW: To deny this appeal. (Marshall/Chan)

MSC: To remand this case for a new hearing due to the absence of a taped record of this case. (Carrico/Alviar: 5-0).

D. 1275 Greenwich St., #602 [G40-18(A)]

In 1985, landlord petitioned for and was granted a capital improvement pass-through. Tenant had a clause in his lease that specified landlord would pay for capital improvements. Tenant raised this issue at the hearing, but Hearing Officer in that case granted the pass-through to all of the petitioned-for units, without addressing tenant's objection in her decision. Tenant maintained that he did not appeal that decision because he assumed it did not apply to him, as landlord had not yet attempted to collect the charges, and that his lease would be controlling. Tenant filed at the time of imposition of such charges, and Hearing Officer upheld the provision in tenant's lease. In his appeal, landlord maintains that tenant should have appealed the original decision and that decision rendered the issue res judicata.

MSC: To hear this case at the Board level on the issue of the capital improvement pass-through and the clause in tenant's lease.
(Carrico/Alviar: 5-0).

E. 244 Grattan St., #6 [G40-19(A)]

The original tenant in this case informed the landlord that he would be temporarily vacating the unit, and that his roommate would be paying the rent until his return. After landlord accepted rent from the roommate for six months, the original tenant decided not to return, and landlord attempted to raise the rent to market. Tenant filed a petition regarding the proposed rent increase and Hearing Officer found him to be a tenant "at suffrance" and held that vacancy decontrol was not triggered. In his appeal, landlord maintained that the sublessee had not established tenancy as the arrangement was to have been temporary.

MSC: To accept this case for a hearing at the Board level. (Carrico/Alviar: 4-1; Chan dissenting).

F. 48 Haight St., #6 [G40-20(A)]

Tenant petitioned for decreased services due to inadequate security in the garage, which had led to her and other tenants' cars being vandalized. Landlord failed to appear at the hearing, and alleged in his appeal that the Notice of Hearing hadn't been forwarded to his new mailing address. He also maintained that he had been unaware of any security problems in the building. Tenant's response was that she had communicated her concerns to a series of building managers.

MSC: To remand this case for a new Hearing Officer. (Marshall/Alviar: 5-0).

G. 620 Jones St., #908 [G40-21(A)]

Tenant petitioned for decreased services, which Hearing Officer found to be of insufficient severity to warrant an award. There was also an issue of prior PG&E pass-through's having been included in base rent, for which Hearing Officer ordered a refund. On appeal, landlord maintains that the amounts overcharged are less than the landlord had actually been entitled to.

MSC: To deny this appeal. (Marshall/Alviar: 5-0)

H. 1946 Grove St. [G40-22(A)]

Tenant petitioned regarding past illegal increases on her garage and an alleged decrease in services due to the removal of use of the backyard. Hearing Officer awarded reimbursement for the rent increases, but found that landlord's removal of the backyard was warranted by tenant's failure to clean up after her dog. Tenant's appeal maintains that, as the Hearing Officer found that decreased services existed, the Ordinance requires that compensation be awarded.

MSC: To deny this appeal. (Marshall/Alviar: 5-0)

I. 59 Lupine St., #601 [G40-23(A)]

Tenants petitioned and are appealing regarding an alleged improper rent increase. They were subtenants of a prior tenant who had previously vacated the apartment, and they paid rent to her in an amount in excess of what she paid to the landlord. Upon the termination of her agreement with the landlord, tenant argue that they should only be obligated to pay the same amount landlord had been receiving from the master tenant, especially as the furniture she had provided them is no longer available. Hearing Officer found that the landlord merely stepped into the position previously held by the master tenant, and that the amount of rent should remain unchanged.

MSC: To deny this appeal. (Carrico/Alviar: 3-2; Chan, Marshall dissenting).

J. 3331- 26th St. [G40-24(A)]

Tenants petitioned regarding a large rent increase, and Hearing Officer found that landlord's voter registration and utility bills were sufficient proof of the owner-occupied exempt status of this building. On appeal, tenants allege that: the voter registration was not changed until after tenants filed their petitions; the telephone calls could easily have been made by workmen renovating the unit; the PG&E bills were too small to establish residency; and the individual staying in the unit is actually a friend of the landlord.

MSF: To remand these cases for a new hearing before a new Hearing Officer.
(Marshall/Chan: 2-3; Alviar, Carrico, Payne dissenting).

MSC: To remand these cases to the same Hearing Officer to review the tape, issue more

complete Findings of Fact, and hold a new hearing if he considers it necessary.
(Chan/Marshall: 3-2; Alviar, Payne dissenting).

L. 1555 Church St. [G40-26(A)]

Tenant received a Notice to Vacate shortly after objecting to a rent increase for an additional occupant. Landlord alleged that the grounds for eviction were tenant's refusal to sign a written rental agreement; tenant's refusal was based on the fact that the proposed agreement materially changed the terms of her tenancy. The Hearing Officer found the eviction clearly wrongful. In his appeal, landlord maintains that tenant had been given the unit at reduced rent as her occupancy was to be temporary.

MSC: To deny this appeal. (Marshall/Alviar: 5-0)

M. 143 San Jose Ave. [G40-26(A)]

Tenant filed a Report of Alleged Wrongful Eviction, after receiving a 3-Day Notice to Pay or Quit. Hearing Officer found that no wrongful eviction existed, which tenant appeals. Landlord's version of events is as follows: he and tenant shared the unit under a verbal agreement for her share of the rent to be \$300 and his share \$350. This arrangement was to be temporary, until tenant found a roommate. He vacated the unit, but tenant's roommate never moved in. Tenant maintains that landlord never occupied the unit, and made no contribution towards the rent. The amount of rent of the unit is in dispute.

MSC: To remand this case to a particular Hearing Officer to attempt to mediate between the parties. (Carrico/Alviar: 5-0).

V. Appeal Hearing

1. 786 Dolores St. [G38-3(A) and G38-4(A)]

Both landlord and tenant appealed the Hearing Officer's decision of December 6, 1985. The appeals of both parties were accepted by the Board and a hearing was convened at 6:58 p.m. and closed at 8:41 p.m. In appearance was tenant Susan Seelig, represented by William Robinson, and landlords Nicholas Jarret and Donald Stroh, representing themselves.

Tenant had petitioned for decreased services and failure to make requested repairs. Hearing Officer found no significant decrease in housing services, but denied the 4% rent increase for the failure to repair. An eviction action is currently pending in the Courts.

At the hearing, tenant alleged the following habitability problems: insufficient weatherproofing, leading to excessive mold and mildew; incomplete patching and painting of the unit; mice infestation; defective window shades and caulking; and loss of faucet and garden hose. Landlords' response was that: the tenant had perjured herself in filing an "Affidavit of Indigency"; tenant had never filed a petition for "failure to repair"; and that the remaining repairs would have been completed had the tenant provided them access to the unit.

Upon deliberation at the conclusion of the hearing, the Board made the following motion:

MSC: To continue this case for one week in order to allow the parties time to enter into settlement negotiations.
(Carrico/Alviar: 5-0).

VI. Communications

The Board received the following communications:

- A. The monthly workload statistics for February.
- B. Landlord's response to the issues raised in tenants' appeal in the case at 3331 and 3329 26th Street.
- C. The decision of the Board in the case at 1538 Grant Street, which was signed by President Payne.
- D. An article from the March 12, 1986 San Francisco Chronicle.

VII. Director's Report

- A. Executive Director Hernandez reported that consideration of procedures required by SB 505 had been continued to the next meeting of the Planning, Housing and Development Committee of the Board of Supervisors.
- B. The Director informed the Board that, during Roll Call at the Board of Supervisor's meeting, Supervisor Britt asked that legislation be drafted raising the percentage interest for eviction to 26%.

VIII. Old Business

- A. President Payne reiterated the deadline for the Mayor's request for letters regarding the federal budget.
- B. The Board discussed the proposed changes to the PG&E pass-through section of the Rules and Regulations, which are being worked on by Commissioner Carrico. Commissioner

Marshall distributed a revised draft of section 10.10 of the Rules and Regulations.

IX. New Business

- A. The Board briefly discussed the procedures for filing an "Affidavit of Indigency."
- B. The Board explored possibilities for establishing time limits on testimony at Board hearings.

X. Calendar Items

March 25, 1986

- 3 appeal considerations
- 3 appeal hearings:
 - 876 Haight St. [G38-5(A)]
 - 334 Precita Ave. [G36-37(A)]
 - 107 Noe St. [G40-9(A)]

April 1, 1986

- 2 appeal considerations
- 1 appeal hearing
 - 928 Broderick St. [G38-6(A)]

April 8, 1986

- 2 appeal considerations

XI. Adjournment

President Payne adjourned the meeting at 9:10 p.m.

3/20/86:ap



SF
R52
#1
3/25/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

March 25, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

MAR 21 1986

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I. Call to Order

II Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- A. 3540 Balboa St., #8 [G40-28(A)]
- B. 861 Clayton St., #2 [G40-29(A)]
- C. 1565 Jackson St., #10 [G40-30(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

None

VIII. Old Business

IX. New Business

X. Appeal Hearing

- 1. 876 Haight St. G38-5(A) first considered February 11, 1986
- 2. 334 Precita Ave. G36-37(A) first considered Jan. 21, 1986
- 3. 107 Noe St. G40-9(A) first considered March 11, 1986

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

3/20/86:ap

0688A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 25, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Alviar; Chan; Chinchilla;
Curran; How; Payne.

Commissioners not Present: Jackson; Waller

Staff Present: Hernandez; O'Hearn

Commissioners Carrico and Marshall appeared on the record at 5:39 p.m. and 5:40 p.m., respectively. Commissioner Chinchilla went off the record at 6:45 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of March 18, 1986,
as corrected.

IV. Consideration of Appeals

A. 3540 Balboa St., #8 [G40-28(A)]

The tenant appeals the hearing officer's decision denying him a rent decrease for a reduction in housing services based on the landlord's refusal to allow the tenant to have roommates and/or sublet his 3-bedroom apartment.

MSC: To deny the appeal. (Chinchilla/Alviar:
5-0)

B. 861 Clayton St., #2 [G40-29(A)]

The landlord appeals the hearing officer's decision granting a 2% rent decrease based on the unavailability of a trash chute.

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MSC¹: To excuse Commissioner Carrico from participating in consideration on this case. (Chinchilla/Alviar:: 5-0)

MSF²: To accept the appeal and shcedule a hearing on the record before the Board. (Alviar/
Chinchilla: 2-3; How, Marshall and Payne dissenting.)

20. 3 p.m. 10/17/01
S. 1000 ft.
1000 ft.

- MSC³: To accept the appeal and remand the case on the record before a new hearing officer. (How/Marshall: 3-2; Alviar and Chinchilla dissenting)
- MSC⁴: To allow the hearing officer to schedule an evidentiary hearing, if it is determined to be necessary. (Marshall/How: 3-2; Alviar and Chinchilla dissenting)

C. 1565 Jackson St., #10 [G40-30(A)]

The landlord appeals the hearing officer's recommendation that the Board monitor this eviction case and take action if the landlord persists in evicting the tenant.

- MSC: To deny the appeal. (Chinchilla/Alviar: 5-0)

V. Communications

- A. Correspondence from the landlords to the tenant's attorney regarding 786 Dolores St. [G383(A) and G38-4(A)].
- B. A letter dated March 20, 1986 to Stonestown Management from the tenants of 255 Buckingham Way #101.
- C. A memo dated March 11, 1986 to city departments from the City Attorney regarding conflict of interest/consultants.

VI. Director's Report

The Executive Director presented his memo to the Board concerning MBO goals for fiscal year 1986-87.

- MSC: To approve the objectives for next fiscal year as stated in the memo. (Alviar/Chinchilla: 5-0)

VII. Old Business

A. 768 Dolores St. [G38-3(A) and G38-4(A)]

The Board heard this appeal case during its meeting on March 18, 1986. As the parties have been unable to settle the matter, the case was again before the Board.

- MSC¹: To excuse Commissioner Chinchilla from consideration of the case since he was not present at the appeal hearing. (Carrico/Marshall: 5-0)

The Board discussed the question of the landlord's failure to repair and maintain the premises with respect to the mold and mildew problem and the extermination services.

MSF²: To deny the annual increase based on the landlord's failure to repair and maintain. (Chan/Marshall: 2-3; Alviar, Carrico and Payne dissenting)

MSC³: To find that the current base rent is \$364.37, (including the annual 4% increase) plus \$103.13 for previous capital improvement passthroughs and \$7.90 for current passthroughs, for a total current rent of \$475.40.
(Carrico/Alviar: 5-0)

In noting that the parties are in litigation, the Board also expressed its concern that the Board communicate to the court that the 4% increase was appropriately disallowed pursuant to the Decision of the Hearing Officer which remained in effect until the Board reversed the decision by its above action. When the Hearing Officer's Decision was in effect (period January 1986 to March 25, 1986), the correct base rent was \$350.36 plus the authorized passthroughs. Upon the Board's reversal of the Hearing Officer's Decision, the tenant owes the difference between the current base rent determined by the Board and the base rent determined by the hearing officer.

B. Proposed Changes to the Rules and Regulations

The Board agreed to set special meetings from 4:30 p.m. to 5:30 p.m. on April 8th and April 15th to discuss draft rule changes.

VIII. Calendar Items

April 1, 1986

2 appeal considerations
2 appeal hearings
928 Broderick St. [G38-6(A)]
107 Noe St. [G40-9(A)]

April 8, 1986

2 appeal considerations
2 appeal hearings
1275 Greenwich St. #602 [G40-18(A)]
244 Gratton St. #6 [G40-19(A)]

IX. Appeal Hearings

A. 876 Haight St. [G38-5(A)]

The parties did not appear. Staff had not received either a withdrawal of the appeal or a continuance request. The Board requested that the matter be taken off calendar and scheduled next week under old business for a status report.

B. 334 Precita Ave. [G36-37(A)]

The hearing commenced at the scheduled time. Both parties appeared with their representatives and witnesses. The issue in this case is whether the building consists of 4 or 5 residential rental units. The dispute specifically concerns a basement unit in which the landlords have allowed a friend of a friend to occupy on an occassional basis over the past 3 years.

Following testimony and submission of documents, the hearing closed at 7:43 p.m.

MSC: To continue Board action on this case until next week. (Carrico/Alviar: 5-0)

X. Adjournment

President Payne adjourned the meeting at 7:45 p.m.



SF
RSB
#1
4/1/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

April 1, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

APR 4 1986

SAN FRANCISCO
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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- A. 3762- 20th St. [G40-31(A)]
- B. 120 Parnassus Ave. #11 [G40-33(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

- A. 876 Haight St. [G38-5(A)] status report.
- B. 334 Precita Ave. [G36-37(A)] appeal hearing held 3/25/86.

IX. New Business

X. Appeal Hearings

- A. 928 Broderick St. [G38-06(A)] appeal accepted 2/11/86
- B. 107 Noe Street [G40-9(A)] appeal accepted 3/11/86,
continued from 3/25/86

10 p.m.

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10 p.m.

XII. Remarks from the Public

XIII. Adjournment

0677A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday April 1, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Payne called the meeting to order at 6:40 p.m.

II. Roll Call

Commissioners Present: Curran, Payne, Waller
Commissioners not Present: Alviar, Chinchilla, Jackson,
Marshall
Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 6:42 p.m.;
Commissioner How at 6:44 p.m.; Commissioner Chan at 6:46 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of March 25, 1986.
(Curran/Waller: 3-0).

IV. Consideration of Appeals

A. 3762- 20th St. [G40-31(A)]

Tenant appealed Hearing Officer's ruling that his building had been exempt from the Ordinance limitations when a 36 percent rent increase was noticed shortly before the owner-occupants vacated. Tenant argued that it violated the spirit of the law to uphold a rent increase effective the same day the owners had indicated they would vacate. Hearing Officer noted the difficulties with the situation but determined that the owners had technically complied with the letter of the law and that the property was not under the jurisdiction of the Rent Board when the notice became effective.

MSC: To uphold the Hearing Officer and deny the appeal. (Curran/Payne: 3-2; Chan and Waller dissenting).

B. 120 Parnassus, #11 [G40-33(A)]

Tenant appealed a pass-through of capital improvement costs on the basis that part of the work resulted from deferred maintenance; and some of the work did not benefit the tenants and was mistakenly included although specifically denied by the Hearing Officer.

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1930-1940

MSC: Staff will review the matter of the garage costs to determine if technical corrections can be made or if a further hearing is needed on this issue.
(Carrico/Curran: 5-0).

V. Communications

- A. The Commissioners were given copies of notices of Special Meeting on April 8 and April 15, 1986 from 4:30 - 5:30 p.m. to discuss the proposed Rules changes.
- B. A letter from the Apartment House Associations Consolidated - confirming with Ricardo Hernandez a speaking engagement April 15, 1986 - was distributed to the Commissioners.

VI. Director's Report

- A. Executive Director Ricardo Hernandez reported that he has been asked to attend the April 14, 1986 Board of Supervisors hearing to discuss the rent increase aspects of the proposed 19% sewer charge.
- B. A training for newly selected Hearing Officers is scheduled for April 4, 1986, from 1:00 to 4:00 p.m. All Commissioners are welcome to attend.
- C. Mr. Hernandez indicated that in the last two days nine landlords had filed operating and maintenance petitions for 500 units.
- D. The MBO objectives were approved.
- E. On May 2, 1986 Mr. Hernandez will meet with the Mayor to discuss next year's budget, already given tentative approval. The Commissioners were encouraged to participate in the discussion.

VII. Consideration of Allegations of Attempted Wrongful Eviction

A. 363 Arguello Blvd. #4 [G138-06(E)]

The tenant has lived at the above address since April 1982. His rent is \$473.00. He was given eviction notices for renovation on August 30, 1985 and October 1, 1985 and October 14, 1985; he filed with the Rent Board September 11, 1985. The first two notices were legally invalid; the second invalid eviction notice was given despite documents from the Rent Board instructing the owner and her agent that the first notice was legally defective and why. In conversations between the landlord/her agent and the eviction unit and executive director, the owner was also told that she could not

legally do the following acts which she had indicated to the tenant she would pursue: refuse to allow the tenant back in after renovation work, even though the permits clearly show a Sec. 37.9(a)(11) renovation situation; turn off the utilities to force tenant out; insist that he take his full security deposit since they had no intention of letting him back in. The owner and her agent were informed several times both orally and in writing that they must allow the tenant to resume his tenancy when the work was completed.

No permits had been obtained before sending the first notice. Although building code violations were claimed by the owner, the BBI documents did not give a breakdown of necessary repairs. The owner's building permit was for \$900; her son/agent submitted his own itemized list of \$26,000 in work, only a small portion of which effected tenant's unit. The Rent Board informed the owner that the anticipated 10 weeks to do the work was generous but not clearly unreasonable; it was stressed that the estimated reentry date of January 15, 1986 would be monitored for compliance.

On January 24, 1986, a letter was sent to the tenant asking for an update on the situation. He responded that he had not been informed that the construction was completed and that he had gone by the property and found a "for rent" sign in the window of his unit. He had received no word from the owner on the availability of the apartment for his relocation. At the March 3, 1986 hearing the owner's agent indicated they had decided to not let the tenant back into the unit for the following reasons: tenant lost his right to relocation by moving out three days "late"; tenant's car had to be towed despite a 48-hour notice to remove it from the premises; tenant had delayed the construction work by filing an eviction report with the Rent Board, therefore causing the owner to lose money. At the March 3, 1986 hearing, Hearing Officer found clear evidence of an attempted wrongful eviction. She recommended that the Board take further action if the unit were not offered to the tenant. The decision was mailed March 17, 1986. On March 26, 1986, a letter was sent to the owner following a phone call from the tenant which informed the Rent Board that the phone company indicated that a new tenant was moving into the unit.

RECOMMENDATION: It is urged that the Board immediately schedule this case for a hearing so that they can inform the owner and her son/agent of the impropriety of their acts and the possible resulting legal liability.

B. 2010 Vallejo St. #A [G148-21(E)]

Tenant has resided in her unit since July 1980 and pays \$375.00. Her small apartment is comprised of two rooms; she stated that it often feels small for even one person. The building consists of six units and a renovated garage, now a residence. The owner lives in one of the seven units. Tenant received a defective notice October 31, 1985 with no just cause stated. A second defective notice was served December 10, 1985 (lacking the advice clause), in which the owner stated that he could no longer rent her unit to anyone. On December 11, 1985 the Rent Board sent materials in response to the tenant's eviction report. Another eviction notice was dated January 2, 1986, giving as the cause the proposed occupancy of the owner's "children."

At the hearing the owner indicated that he wanted the tenant's unit for his 32 year old son and bride-to-be. No date has been set for the wedding. The son earns \$50,000 a year; his fiance is also employed. The owner testified that his son had sold his two-bedroom house and moved into the owner's apartment, which he shares with his parents; the tenant denied this fact, stating she had seen the son come and go from the basement apartment but not the owner's unit. The landlord testified that he intended for his son and bride to live in tenant's unit, sharing meals with his mother and father in their apartment. In reply to the Hearing Officer's enquiry about the notice that said nobody could reside in the unit, the owner noted that the building inspector might determine that one unit was illegal and would have to be removed; if this were to happen, the landlord would eliminate the smaller unit, tenant's. However, no such indication had been received from BBI as of the date of the hearing. The landlord also owns an adjacent building which had a vacancy during this tenant's notice period. The owner stated that 2-bedroom unit would have been too large for his son and wife. The Hearing Officer found the attempted eviction wrongful. Given the son's prior larger residence, his income, and his upcoming marriage, she did not believe the son and wife would live in tenant's unit for the required length of time, if they were to move in at all. This just cause was also not persuasive given the owner's earlier assertion that nobody could live in the unit because of a possible Bureau of Building Inspection violation.

RECOMMENDATION: To write a cautionary letter to this owner, expressing the concern of the Hearing Officer and Eviction Unit that this eviction was not being pursued in

good faith and that legal liability might occur from further action on this matter.

C. 408 Font Blvd. [G146-07(E)]

This tenancy commenced in 1976 with Michael and Robert Choy. In 1983 sister Terry Choy "applied" to be a tenant and was allowed to move in. She paid rent with her personal checks, even though landowner (Parkmerced) continued to provide yearly leases in the names of the original tenants, only. In September 1985 the new lease was attributed to Terry Choy and Bruce Choy; the latter was asked--merely as a matter of convenience--to fill out the application and sign for Michael Choy, who was out of the area, although Bruce had no intention of becoming a resident and Michael was not relinquishing his tenancy.

On October 26, 1985 Michael and Terry wrote management asking when they could receive a copy of the new lease. On November 6, 1985 management wrote back that the lease had expired and Michael had not executed a renewed lease. It further stated that since he lived in Berkeley, he no longer resided in the premises and must surrender possession. Terry was informed that she could apply for an apartment, apparently as a new tenant, since the tenancy under which she had gained possession had expired and she had no independent landlord-tenant standing. Michael agreed that he did not reside in the unit at all times but rather 2-3 days a week, since his profession requires that he divide his time between San Francisco and Berkeley. However, he never indicated a desire to vacate, continues to have his voting registration in San Francisco, and retains a phone in his name at that address. His sister has always resided there on a permanent basis since her initial tenancy in 1983.

The Hearing Officer found the attempted eviction wrongful for the following reasons: the eviction notice is defective; Michael did not refuse to execute a renewed lease nor was any further demand made that he do so; there is no legal authority for denying a tenant right to retain possession of a unit even though he/she resides there on a part-time basis; Terry's approved tenancy has been clearly established and gives her rights independently of Michael.

RECOMMENDATION: Hearing Officer and Staff suggest a cautionary letter to landlords. Since the matter has been unresolved for nearly 5 months, the strength of the warning should correspond to the likelihood that the

eviction will be pursued, as established with further enquiries by the Eviction Unit.

D. 2-28th Street #4 [G146-16(E)]

The subject tenant moved into the 7-unit building in 1979. Her current rent is \$359.00. Tenant has had a cat for over 3 years; although permission was never directly given for the pet, the prior owner did discuss the matter with the tenant and took no action on the issue since 1983. On November 15, 1985, tenant was served with a thirty-day notice for lease violations for having pets, a water bed, and a roommate; there is no evidence that the landlord ever gave the proper "cure or quit" written notice. Tenant argued that the previous owner knew of all of these issues and had made no complaint, including about the roommate who had resided there since 1981 with the owner's permission.

She further stated that the current owner had known of the cat, roommate and waterbed but had taken no action for approximately 6 months, nor had the matters been brought to tenant's attention. On December 19, 1985, following receipt of a detailed analysis of the situation by the Rent Board, landlord sent a cure or quit letter. Tenant removed the waterbed, and the roommate vacated; tenant insisted on keeping her cat, especially after interviewing each of the tenants in the building to verify that the cat did not bother anyone. Another 3-day eviction notice was issued December 24, 1985. Landlord gave tenant written notice on December 30 that he would come in the next day--less than 24 hours later--to see if she had cured the breaches. When she protested, he insisted he would come anyway. Tenant took off from work to be there at the appointed time. She testified that when she tried to assert her rights to 24-hour notice, the owner tried to physically force his way in. Tenant phoned the police, who arrived and informed the owner that he was in the wrong. At the hearing the owner submitted photos of tenant's unit--including photos of pet paraphernalia--which tenant insisted were taken without her permission for or knowledge of landlord's entry. It should be noted that the owner came to the Rent Board several times and had heated discussions with several staff members over the requirement of state and local law in this situation. The Hearing Officer found the attempted eviction wrongful in that the owner had not shown that any just cause reason existed and that his behavior suggested bad faith motives.

RECOMMENDATION: Hearing Officer and Eviction Unit Staff suggest this case be monitored and the landlord be cautioned against further attempts to remove this tenant under the body of facts at issue.

MSC: To accept staff recommendation on each case. (Curran/Waller: 5-0).

VIII. Old Business

A. 876 Haight St. [G38-5(A)]

The staff reported to the Board that they had been unsuccessful in ascertaining why neither side appeared at the scheduled appeal hearing March 25, 1986. Messages had been left for both sides, but no response was ever received.

MSC: To dismiss the appeal.
(Carrico/Curran: 5-0).

B. 334 Precita Ave. [G36-37(A)]

The issue in this case is whether the building consists of 4 or 5 residential rental units. The dispute specifically concerns a basement unit in which the landlords have allowed a friend of a friend to occupy on an occasional basis over the past 3 years.

After continuing the case for one week, the Board voted as follows:

MSC¹: To excuse Commissioner Waller from this vote. (Carrico/Chan: 5-0).

MSC²: To hold that the building has four residential units and is therefore exempt from Rent Board jurisdiction at this time; to set aside the Hearing Officer's decision. (Carrico/Curran: 4-0).

IX. Appeal Hearing

A. 928 Broderick St. [G38-06(A); appeal accepted Feb. 11, 1986]

This matter was scheduled for a hearing at 6:00 p.m. Since there was no appearance by the tenant, a fifteen minute delay was granted; tenant did not appear. After ascertaining that notice had been sent to the tenant, the hearing commenced at 6:26 p.m. Appearing were owner Marion Merriouns and her attorney, George Holland.

The tenant had filed this petition on July 22, 1985 based on decreases in service. The landlord failed to appear at the hearing, but later sent notices to the Board

regarding the tenant's eviction. The Hearing Officer granted a 40 percent decrease (\$70/month) from July 1984 to July 1985. The landlord appealed, claiming that the Board had no jurisdiction based on the unlawful detainer judgment entered on July 3, 1985 and on the tenant's previous attempt to litigate the matter in Superior Court. The landlord also claimed that the tenant gave false testimony to the Hearing Officer.

At the appeal hearing the Commissioners elicited testimony on the jurisdictional issue. The owner testified that the property was owner-occupied and therefore exempt from the Rent Ordinance. She specifically denied that she had ever had four individual tenants renting rooms. She explained that she had not attended the earlier Rent Board hearing because she believed the matter had reached final resolution during the court unlawful detainer action. The hearing was closed at 6:26 p.m.

After reviewing the testimony and evidence, the Board voted as follows:

MSC: To hold that the Rent Board has no jurisdiction over this matter and set aside the Hearing Officer's decision.
(Curran/Carrico: 5-0).

B. 107 Noe St. [G40-9(A); appeal accepted March 11, 1986 and continued from March 25, 1986]

An appeal hearing was scheduled for 7:30 p.m. and began on the record at 7:35 p.m. Appearing were tenant Stephen Vincent and owner's attorney David Jung.

Tenant had filed an appeal pursuant to a Hearing Officer's decision that he was a new tenant, subject to vacancy decontrol. The subject tenant took up residence under a six-month agreement that allowed him to temporarily replace one of the existing tenants. After more than eight months, it appeared all original tenants had vacated. Owner gave the subject tenant a \$200 rent increase and listed improvement work which would be performed, making it clear that the six-month agreement was terminated and a lower increase was being imposed because the subject tenant had been a good renter. Tenant agreed in writing to the increase and asked for repairs. Tenant appealed on the following issues: 1) vacancy decontrol was not triggered; 2) owner was not entitled to an increase until the agreed repairs were completed; 3) a second increase for \$500 was given after landlord received the decision.

The tenant testified that he believed the landlord's offer of a rent increase from \$508 to \$710 meant he had been accepted as a tenant in his own right. He stated that no difficulties had arisen until other family members of the owner became involved; previously he and the owner had come to several agreements, including a delay in the rent increase until repairs and improvements were completed. The tenant submitted copies of Bureau of Building Inspection citations noting repair needs which the owners had not yet corrected. According to his testimony, tenant said he paid the increased rent "under protest" since the work was not done. He believes the later increase to \$1,200 was retaliatory.

The landlord's representative maintained that the resident is not a tenant because he obtained possession under false pretenses; he knew from the outset that the tenant he replaced temporarily were, in fact, vacating permanently. Further, owner's attorney stressed that there never was an agreement for the \$710 rent, and that tenant by his own actions showed there had been no meeting of the minds on this issue. The attorney noted that a study showed that \$1,200 was the current market rent for comparable units in this location.

The hearing was closed at 8:48 p.m. After discussing the issues briefly, it was the consensus of the Board to continue the case for one week in order to review the exhibits. The parties agreed to attempt to reach a settlement during the continuance period and will report to the Commissioners at 6:00 p.m. on April, 8, 1986.

X. Calendar Items

April 8, 1986

4:30 - Special Meeting: Rules changes
5:30 - Regular meeting:
 4 appeal considerations
 Old business: Report on 107 Noe St.

6:00 - Appeal hearing: 1275 Greenwich, #602
 [G40-18(A) accepted March 18,
 1986]

6:45 - Appeal hearing: 244 Grattan, #6 [G40-19(A)
 appeal accepted March 18, 1986]

April 15, 1986

4:30 - Special meeting: Rules changes

5:30 - Regular meeting:
4 appeal considerations

6:00 - Eviction hearing: 363 Arguello Blvd., #4
[G138-06(E) staff
recommendation accepted April
1, 1986]

XI. Adjournment

President Payne adjourned the meeting at 8:55 p.m.

4/3/86:ap

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**NOTICE OF THE SPECIAL MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,**

April 8, 1986 at 4:30 p.m.

State Bldg., 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

APR 4 1986

**SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Discussion of Proposed Rules Changes
- IV. Remarks from the Public
- V. Adjournment



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 8, 1986 at 4:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 4:50 p.m.

II. Roll Call

Commissioners Present: Chan; Chinchilla,; Marshall;
Payne.

Commissioners not Present: Alviar; Curran; Jackson; Waller.
Staff Present: Hernandez; O'Hearn.

Commissioner Carrico appeared on the record at 4:52 p.m. and Commissioner How appeared at 5:30.

III. Discussion of Proposed Rules Changes

A. Regulation 6.13. Agreements to Pay Additional Rent for Newborn Children.

Commissioner Chinchilla submitted a revised draft of proposed Regulation 6.13. The draft followed "Option 1" in the Draft Rule Changes dated February 6, 1986 and considered at the public hearing on February 25, 1986 with the addition of two sentences: "This Section shall not be construed, by implication or otherwise, to authorize automatically any rent increase in cases involving roommates, children or any other additional tenant(s). Such cases shall be disposed of on a petition-by-petition basis."

room Commissioners discussed whether such additional language was necessary in this regulation. Initially there was no clear agreement and Commissioner Marshall expressed her favor for "Option 3" which did not make any distinction between the age or category of an additional tenant.

MSF: To adopt "Option 3" in the Draft Rule Changes dated February 6, 1986. (Chinchilla/Marshall: 2-2, Carrico and Payne dissenting.)

After further discussion, the Commissioners agreed to replace the additional language as follows: "Section 6.13 shall not be construed, by implication or otherwise, to establish a rule for cases involving other children, roommates or any other additional tenants."

MSC: To adopt "Option 1" in the Draft Rule Changes dated February 6, 1986 with the addition quoted above. (See full text attached.) (Chinchilla/Carrico: 4-0.)

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B. Regulation 4.11. Computation of Passthrough of Gas and Electricity.

Commissioner Carrico submitted a draft of revisions to Regulation 4.11 for the Commissioners' review before the next scheduled special meeting on April 15, 1986.

IV. Adjournment

Rather than adjourn, at 5:34 p.m. the Board continued its special meeting for commencement of its regular meeting.

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Section 6.13 Agreements to Pay Additional Rent for
Newborn Children

(Added 4/8/86)

(a) No extra rent may be charged solely for the addition of a newborn child to an existing tenancy, regardless of the presence of a rental agreement or lease which specifically allows for a rent increase for additional tenants. Such provisions in written or oral rental agreements or leases are deemed to be contrary to public policy.

(b) Section 6.13(a) shall not be construed, by implication or otherwise, to establish a rule for cases involving other children, roomates or any other additional tenants.

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

April 8, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

4:30 - Special Meeting: Proposed Rules changes

I. Call to Order

DOCUMENTS DEPT.

II Roll Call

APR 7 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 1320 - 1360 Lombard St. [G40-34(A)-G40-38(A) - 5 units]
- B. 1322 Leavenworth St. [G40-39(A)]
- C. 402 Haight St., #1 [G40-40(A)]
- D. 3049 Sacramento St., #10 [G40-32(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

107 Noe St. - Report on settlement efforts

IX. New Business

X. Appeal Hearing

- p.m.
p.m.
- A. 1275 Greenwich St., #602 G40-18(A) first cons. 2/18/85
 - B. 244 Grattan St., #6 G40-19(A) first cons. 2/18/86

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

4/3/86:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 8, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Carrico; Chan; Chinchilla; How;
Marsall; Payne

Commissioners not Present: Alviar; Jackson

Staff Present: Hernandez; O'Hearn

Commissioner Curran appeared on the record at 5:40 p.m. and Commissioner Waller appeared at 6:24 p.m. Commissioners Chan and Curran left the record at 7:00 p.m. and 8:10 p.m. respectively.

III. Approval of the Minutes

MSC: To approve the minutes of April 1, 1986.
(Marshall/Carrico: 5-0)

IV. Consideration of Appeals

A. 1320-60 Lombard St. [G40-34(A)through G40-38(A)]

Five tenants appealed the hearing officer's decision granting their landlord's rent increase petition. They dispute the method of financing, the operation of the corporation which owns the property and they complain that they did not receive copies of bills submitted after the hearing.

MSC: To deny the appeals. (Carrico/Chinchilla: 5-0)

B. 1322 Leavenworth St. [G40-39(A)]

The Hearing Officer's Decision on this rent decrease petition was mailed on February 25, 1986 with a clerical correction on March 4, 1986. The tenant appealed by letter on March 12, 1986 and on the Board's appeal form on March 17, 1986. The tenant contests the percentage amount of the decrease granted by the hearing officer because it was based on rent which had previously been reduced due to an illegal increase. The tenant attempted to raise additional appeal issues by letter dated March 31, 1986.

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MSC: To deny the appeal. (Chinchilla/Carrico: 5-0)

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C. 402 Haight Street #1 [G40-40(A)]

The tenant appealed the Hearing Officer's Decision denying his petition based on decrease in services and failure to repair and maintain. The hearing officer's denial was based on the landlord's agreement at the hearing to make the requested repairs. The tenant contends that the landlord still has failed to make those repairs.

MSC: To deny the appeal. (Chinchilla/Carrico: 5-0)

D. 3049 Sacramento Street #10 [G40-32(A)]

The landlord appealed the Hearing Officer's Decision on consolidated tenant petitions for rent decrease. The landlord contests the decision only as it applies to the rent decrease for loss of storage space for unit 10.

MSC: To deny the appeal. (Chinchilla/Marshall: 3-2; Carrico and Payne dissenting.)

V. Communications

A. The Executive Director submitted copies of letters from the landlord and tenants of Stonestown apartments, but deferred the matter to Old Business on the agenda.

B. He also submitted the monthly statistical report for March 1986 showing the number of petitions filed and hearings held.

VI. Director's Report

A. Executive Director Ricardo Hernandez reported on the increase in the number of petitions filed with the Board.

B. He also reported that Evictions Unit Supervisor Alicia Wicks will give a presentation during a "Roomates" workshop on May 3, 1986 sponsored by Old St. Mary's Housing Committee. Additionally, Deputy Director Barbara O'Hearn was a guest speaker at the San Francisco Business League's luncheon on April 3, 1986 and at a tenants' meeting called by the new landlord for 980 Bush Street on April 1, 1986.

VII. Appeal Hearings

A. 1275 Greenwich Street #602 [G40-18(A)]

This appeal was accepted by the Board on March 18, 1986. The appeal hearing commenced at 6:20 p.m. The issue in this tenant petition concerns a clause in the tenant's lease originally signed in 1984 which provides that the landlord shall pay for capital improvements.

The landlord, who is an attorney and who drafted the lease clause and filed the appeal, argued two points: (1) whether the clause constitutes the landlord's waiver of capital improvement increases allowable under the Rent Ordinance by a prior decision; and (2) whether the prior decision granting a capital improvement increase is binding on the tenant, notwithstanding the clause.

The Board noted that the particular clause was not part of the form lease, but was typed in. The landlord also mentioned that the clause applied to one-third of the units in this 12-unit building.

The hearing closed at 6:48 p.m. and the Commissioners then discussed the case. While noting that one intent of the Rent Ordinance was to encourage landlords to make capital improvements, discussion centered on the unique facts of this case.

MSC: That the capital improvement passthrough granted by the prior decision does not apply to this tenant.
(Marshall/Chinchilla: 5-0)

B. 244 Gratton Street #6 [G40-19(A)]

The Board accepted the landlord's appeal for this case on March 18, 1986. The issue is whether the unit was subject to vacancy decontrol after the original tenant decided not to return to the unit following his temporary vacancy. The landlord had accepted rent for six months from the original tenant's roommate who remained in the unit and protested the market rent increase.

Both parties appeared at the hearing with their representatives. The hearing closed at 7:45 p.m. The Board reviewed the facts of the case, noting that the unit consisted of two bedrooms and that the original tenant paid no rent after leaving on vacation. Most of the Commissioners believed that the landlord accepted rent from the "roomate" as a favor to the original tenant who went on vacation.

MSC: To reverse the Hearing Officer's Decision and find that the unit became "decontrolled" following the original tenant's permanent vacancy of the unit, thereby establishing a new base rent of \$600 pursuant to the landlord's notice dated October 10, 1986. (Chinchilla/Carrico: 4-1, Marshall dissenting.)

VIII. Old Business

A. 107 Noe Street [G40-9(A)]

The Board heard this case on April 1, 1986 after accepting the appeal on March 11, 1986. Before reaching a decision, the Board

continued the matter to review the exhibits and allow the parties to consider a settlement. The representatives appeared and informed the Board that the tenant's final proposal had not yet been considered by the landlord. Therefore, the Board continued this matter to next week's meeting if it was not settled before that time.

B. Parkmerced Residents Organization v. Rent Board

Since the Superior Court (No. 837-626) awarded judgment against the Rent Board for court costs and attorneys fees in this case, the Board approved a payment vooucher for \$1,821.25.

C. Stonestown Apartments

Commissioner Chinchilla reported that someone had requested him to meet with the president of the tenants' association of this property to find out the status of the ongoing dispute between the landlord and management. After some discussion of various options to resolve the dispute, the Board approved of the requested meeting.

IX. Calendar Items

April 15, 1986

4:30 - Special meeting: Rules changes

5:30 - Regular meeting: 4 appeal considerations;
Eviction hearing originally scheduled is postponed.

April 22, 1986

2 appeal considerations
Eviction hearing: 363 Arguello Blvd., #4 [G138-06(E)]
(Staff recommendation accepted April 1, 1986.)

XI. Adjournment

President Payne adjourned the meeting at 8:27 p.m.



MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 15, 1986 at 4:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the Special Meeting of the Board to order at 4:45 p.m.

II. Roll Call

Commissioners Present:

Alviar; Carrico; Chinchilla;

Payne

Commissioners not Present:

Chan; Curran; Jackson;

Staff Present:

Marshall; Waller

Hernandez; Wolf

Commissioner How arrived on the record at 5:21 p.m.

III. Proposed Rules Changes

The Board discussed Rules and Regulations Section 4.11 regarding PG&E PASSTHROUGHS. Several motions carried making changes and additions to the drafts of April 8th and 15th. Staff will prepare a revised draft incorporating the changes adopted by the Board; Commissioner Carrico will work on Section's 4.11(c)(2) and (3).

IV. Adjournment

Rather than adjourn, at 5:33 p.m. the Board continued its Special Meeting for commencement of its regular meeting.

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DOCUMENTS DEPT.

APR 22 1986

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

April 15, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158
*****AGENDA

4:30 - Special Meeting: Proposed Rule changes

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 2060 Green St., #4 [G40-41(A)]
 - B. 2746 25th St. [G40-42(A)]
 - C. 1215 47th St., #2 [G40-43(A)]
 - D. 41 Jones St., #608 [G40-44(A)]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business
- IX. New Business
- X. Calendar Items
- XI. Remarks from the Public
- XII. Adjournment

APR 17 1986

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 15, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Chinchilla;
How; Payne

Commissioners not Present: Chan; Curran; Jackson; Waller
Staff Present: Hernandez; Wolf

Commissioner Marshall appeared on the record at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of April 8, 1986.
(Alviar/Chinchilla: 4-0).

DOCUMENTS DEPT.

IV. Consideration of Appeals

APR 22 1986

A. 2060 Green St., #4 [G40-41(A)]

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Tenant filed a petition regarding decreased services, failure to maintain and improper PG&E pass-throughs. Hearing Officer gave an award for lack of heat and ordered restitution of the improper rent increases. Landlord maintains on appeal that there was no decrease in services and that he relied on information from Rent Board staff in erroneously using 1981 as the base year for his PG&E pass-through.

MSC: To remand this case to a new Hearing Officer regarding the decreased services award for lack of heat and for a technical correction regarding the PG&E bills.
(Carrico/Alviar: 4-0).

B. 2746 25th St. [G40-42(A)]

Tenant petitioned regarding past illegal rent increases and decreased services in that she no longer had the use of a washing machine. The property had been sold, and the previous owner maintains on appeal that he was advised by the Hearing Officer that his presence would not be necessary at the hearing. He alleges that the washing machine was not a service provided by the landlord, but rather tenant's own appliance.

MSC: To deny this appeal for lack of standing and to remand this case to staff to delete lines 10-13 of the Hearing Officer's decision. (Chinchilla/Alviar: 4-0).

C. 1215 4th St., #2 [G40-43(A)]

Tenant petitioned regarding a rent increase due to her belief that landlord had not yet met the six month occupancy requirement for the owner-occupancy exemption. Hearing Officer concurred due to tenant's testimony, extremely low PG&E bills and lack of installation of fixtures in the unit. Landlord maintains on appeal that he works the swing shift and is away from home a great deal.

MSC: To deny this appeal.
(Chinchilla/Alviar: 4-0).

D. 41 Jones St., #608 [G40-44(A)]

Tenant petitioned for a rent reduction due to alleged lack of heat and maid service. Hearing Officer found that the tenant had failed to meet his burden of proof as the heat was in compliance with local codes and maid service had not been an agreed-upon service that was to be provided as part of the rental package. Tenant's appeal was based on Housing Code Section 707.A and an alleged restriction on visitors.

MSC: To deny this appeal.
(Chinchilla/Alviar: 4-0).

E. 2244 23rd St. [G40-46(A)]

Tenant petitioned regarding decreased services and failure to repair and received an award for lack of heat, garbage, pest control, security, and faulty refrigerator. In his appeal, landlord maintains that the Hearing Officer should have attempted a conciliation; that many of the services, such as heat, were not provided at the onset of the tenancy and therefore there had been no decrease; and that certain of the factual findings were in error.

It was the concensus of the Board to continue consideration of this appeal for one week.

V. Communications

The Board received the following communications:

- A. A newspaper article regarding a court decision awarding Parkmerced residents a refund of a \$65 rental fee.
- B. Letters commending staff members Ernestine Cade and Doris Charles.
- C. A newspaper article regarding a large settlement in a rent case in East Palo Alto.
- D. A letter from the tenant at 107 Noe Street regarding the lack of a settlement in this case.

VI. Director's Report

The Executive Director reported that:

- A. There is a meeting with the Mayor regarding the budget on May 1st at 10:00 a.m.; President Payne and Vice-President Marshall will attend.
- B. He will be speaking at the Apartment House Owners' Association meeting this evening at 8:00 p.m.
- C. The hearing backlog is close to being made up.
- D. The second phase of the computer project has received EISPIC approval.

VII. Old Business

- A. The Board decided to continue consideration of the case at 107 Noe for one week as several of the Commissioners who heard the case were not present.
- B. The Board continued its discussion of proposed changes to the PG&E pass-through section of the Rules and Regulations.

VIII. New Business

- A. Pursuant to Government Code Section 54956.9(a) the Board went into Executive Session to discuss the settlement arrived at by the landlord and tenants at the Golden Gateway complex. After discussion, the Board made the following motion:

MSC: To authorize the Executive Director to sign the settlement.
(Carrico/Alviar: 5-0).

- B. The Executive Director made the Board aware that the tenants at 2090 Broadway are objecting to the landlord's

filling of a third petition for increased operating expenses. The Deputy Director is currently researching the res judicata implications.

IX. Calendar Items

April 22, 1986

6 appeal considerations
1 eviction hearing: 363 Arguello #3

April 29, 1986

5 appeal considerations
1 appeal hearing: 147 Crown Court #7

X. Adjournment

President Payne adjourned the meeting at 8:54 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 22, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Chan, How, Payne, Waller
Commissioners not Present: Alviar, Carrico, Chinchilla,
Jackson, Marshall
Staff Present: Hernandez, Wicks

Commissioner Curran appeared on the record at 5:36 p.m.
Commissioner Chan went off the record at 7:26 p.m.
Commissioner Curran went off the record at 7:45 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of the Regular Meeting of April 15, 1986, and the minutes of the Special Meeting of April 8, 1986, and April 15, 1986, as written.
(Chan/Waller: 4-0). **DOCUMENTS DEPT.**

IV. Consideration of Appeals

A. 2170 Filbert St., #103 [G40-45(A)]

APR 28 1986

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Tenants appealed Hearing Officer's determination concerning a landlord's petition for capital improvements and operating and maintenance increases. Tenants objected to aspects of the pass-through of debt service, particularly the possibility that the owner might be able to receive an operating increase two years consecutively.

MSC: To uphold the Hearing Officer and deny the appeal. (How/Chan: 5-0).

B. 1360 Lombard St., #201 [G40-47(A)]

Tenant appealed the ruling of the Hearing Officer which allowed landowner a 7 percent rent increase for operating and maintenance costs. Tenant argued that owner's petition was not complete, that the decision left out an important cost figure, and that the other tenants were not properly informed of the appeal procedure by members of the Rent Board staff. [Note: this case was the subject of an appeal considered April 8, 1986.]

MSC: To deny the appeal and uphold the Hearing Officer's decision. (Curran/Chan: 5-0).

C. 3560 Divisadero #20, 22 [G40-48(A)]

Landlord appealed Hearing Officer's disallowance of a 7 percent annual increase since it was given during a period when the allowable yearly increase was limited to 4 percent. Owner's appeal merely stated that the anniversary date stated in the decision was incorrect. Although the appeal mentioned supplementary documentation might follow, none was received.

MSC: To uphold the Hearing Officer and deny the appeal. (Chan/Curran: 5-0).

D. 680- 2nd Ave. [G40-49(A)]

Tenant appealed Hearing Officer's ruling that owner could not receive an annual increase until certain repairs had been made, but which did not grant a decrease in services award. On appeal tenant submitted various documents from building and health inspectors, which she believed justified a larger award. She also believed the Hearing Officer erred in not addressing a possible wrongful eviction issue. In rebuttal, Hearing Officer noted that the inspector's reports either had not been introduced at hearing or were dated after the hearing; and no eviction report had ever been filed with the Board.

MSC: To deny the appeal and uphold the Hearing Officer's decision. (Curran/Payne: 5-0).

E. 655 Kansas St. [G40-50(A) - G40-66(A)]

All seventeen tenants involved in this matter appealed Hearing Officer's determination that allowed landowner a portion of those capital improvements petitioned for and operating and maintenance costs. Tenants had also filed consolidated cases for decreases in services, failure to maintain and repair, and for recalculation of PG&E costs. On appeal tenants argued that several tenants were not properly awarded rent reductions; that the current owner should not be entitled to compare current expenses with those of the previous owner; that present owner should not be awarded capital improvement costs incurred by the previous owner; and that the decision did not deal with an alleged improper rent increase issue for several tenants.

MSC: To accept the appeal and remand to a new Hearing Officer for possible mediation,

including the matter of additional rent for additional tenants. (Curran/Chan: 4-1; Commissioner Payne dissenting).

F. 2246- 23rd St., #1, #4 [G40-46(A)]

Landlord appealed Hearing Officer's decision concerning tenants' petition for decreases in service, and failure to repair.

Landlord appealed the awards granted tenants because Hearing Officer did not attempt to conciliate the matter, the awards are excessive, some problems tenant knew of when they moved in, and certain deficiencies were not the fault of landowner.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Waller/Curran: 3-2; Commissioners How and Payne dissenting).

V. Old Business

1. 107 Noe St. [G40-09(A), continued from March 11, 1986]

After having allowed the parties to attempt to reach a settlement, and learning no settlement could be reached, the Commissioners voted as follows:

MSC: To uphold the Hearing Officer's decision. (Curran/Payne: 5-0).

VI. Communications

A. The Board received the Hearing Officer's appeal statement concerning 680- 2nd Ave.

B. Several appeal decisions were reviewed by the Commissioners and were handled as follows:

928 Broderick: approved
3570- 18th St.: approved as corrected
786 Dolores St.: returned for revisions

C. The Board was given the missing agenda for this evening's meeting.

D. The current draft of the proposed utility pass-through Rule change was distributed for consideration at a later date.

- E. Landowner's representative in the matter at 1360 Lombard St., #201 submitted letters to support the Hearing Officer's decision.
- F. Owner's representative wrote the Board to explain why the owner had not appeared at the eviction hearing on 135 Albion St., Apt. A. An appeal form will be mailed to the landlord.
- G. A copy of President Payne's letter to Mayor Dianne Feinstein, summarizing the objective of the Board, was distributed to the Commissioners.

VII. Considerations of Allegations of Wrongful Eviction

A. Eviction Hearing

363 Arguello #4 [G138-06(E)]

An eviction hearing was scheduled for 5:45 p.m. and began on the record at 6:21 p.. Appearing were tenant Aaron Hayes and his attorney Nena Cameron; and landlord Miriam Bernard and her son/representative Thomas Bernard.

Background

Tenant had lived in his unit since April 1982 and currently paid \$473.00. He received a legally defective eviction notice for renovation on August 30, 1985. He filed with the Rent Board on September 11, 1985. Despite instructions from the Rent Board, a second defective notice was served October 1, 1985. A legally correct eviction notice was given on October 14, 1985. During the Rent Board investigation, it was learned that a building permit for \$900.00 had been obtained; the owner's estimate of costs was \$26,000.00 Only a small portion of the stated work appeared to effect tenant's unit. The file reflects that the Executive Director and Eviction Unit specifically cautioned the owner to desist from her stated intention of permanently evicting this tenant.

The Rent Board informed the owner that the time estimated for completion of the work was generous but not unreasonable. Owner was informed that the Rent Board would monitor the January 15, 1986 reentry date for compliance. In response to an inquiry of January 24, 1986 from the Rent Board, tenant replied that he had not been notified he could move back in, and he had information to indicate a new tenant was residing in his unit. A hearing was scheduled on this matter. The

Hearing Officer found a wrongful eviction and recommended that the Commissioners take further action.

At the hearing before the Commissioners, the owner testified that she believed, upon advice from her attorney, that tenant had forfeited his right to the unit from the following actions:

- 1) He remained in his apartment three days beyond the notice date, thereby delaying construction by eight days;
- 2) tenant had refused to remove his inoperable vehicle from the garage area, thus interfering with the construction work until owner had it towed;
- 3) these acts show tenant could not be trusted to live up to his responsibilities as a tenant.

Owner admitted that in total three units had been evicted for renovation and that all three were rerented to new tenants. However, she testified, both of the other residents indicated they had no desire to move back into their units.

In rebuttal tenant stated that he held three jobs and informed the owner that his removal would therefore be delayed three days. He testified that she had no objection. Tenant further testified that he moved his car away from any construction areas and left it next to owner's own inoperable vehicle. He stated that the new residents of his unit have a one-year lease and pay a rent of \$675.00.

In response to questions from the Commissioners, owner stated that no attempt had been made to ask tenant for the three days' holdover rent or to otherwise compensate owner for any actual damages. The hearing was closed at 7:14 p.m.

After discussing the testimony and evidence, the Commissioners voted as follows:

MSC: To find that a wrongful eviction has occurred. (Curran/Chan: 5-0).

Pursuant to Government Code Section 54956.9(a), the Board went into Executive Session to discuss the case. They returned on the record and reported they would take no further action since the tenant had adequate civil remedies.

B. Staff Report

1. 2947 Folsom St. [G004-06(E)]

Tenants have lived in their unit 15 years. Recently their attorney wrote the owners cautioning them from repeated unnoticed entries into tenants' apartment. Less than one month later tenants received an eviction notice, defective on several counts. Owners did not respond to routine inquiries from the Rent Board and did not appear at the hearing. Tenant testified that owner told both her and her daughter that they would be evicted for consulting an attorney. Hearing Officer found a wrongful eviction.

Recommendation: To send owners a stern cautionary letter advising them to not pursue the eviction.

2. 1090 Hampshire St., #1 [G138-35(E)]

Tenant moved in January 1984. The property was transferred to new owners in August 1985. New owners immediately attempted to raise rents 50 percent and/or evict at least three of the residents, two of whom agreed to the increases under threat of eviction. At the hearing one owner admitted all allegations; he did not offer evidence that he had to move into this tenant's unit, as he had earlier maintained. Hearing Officer found substantial evidence of bad faith.

Recommendation: To monitor the case carefully and refer the matter to the City Attorney and District Attorney if appropriate.

3. 7321 Geary Blvd. #1 [G140-18(E)]

Tenant had previously prevailed in a Rent Board hearing and had contacted various City inspectors for building, health, and safety violations. Owner had given an eviction notice in September 1985 for occupancy of owner's sister, who currently lived in a smaller unit in the building. Owner indicated that other relatives would move into the other two units. Hearing Officer found no evidence of bad faith and recommended no further action. Three months later tenants came to the Rent Board with updated information. At a second hearing the eviction attempt was found to be wrongful for the following reasons: the sister now occupies two units, but the subject tenants' eviction notice was not rescinded; the relatives specifically named in another eviction did not move in; the building has recently been sold. Hearing

Officer feels the actual dominant motives were: emptying the building for sale and retaliation for tenants' complaints to inspectors, resulting in an abatement hearing April 1986.

Recommendation: To send a stern letter of caution to the subject owner.

MSC: To accept the recommendations of staff.
(Curran/Waller: 4-0).

VIII. Director's Report

- A. Executive Director Ricardo Hernandez informed the Board that the budget meeting with the Mayor had been rescheduled for this week.
- B. The Commissioners were reminded to inform the Mayor's Office of any changes in address or phone numbers.
- C. The modifications in the hardware and software of the Rent Board computer system have been approved.
- D. Director Hernandez was a guest speaker at the Apartment House Owners Association meeting recently.
- E. Supervisor Harry Britt has proposed an amendment to the Ordinance that would change the ownership interest requirement for owner/relative occupancy evictions from 10 percent to 26 percent.

IX. Calendar Items

April 29, 1986

5 appeal considerations
1 appeal hearing: 147 Crown #7 [G38-13(A) first considered February 11, 1986]

May 6, 1986

5 appeal considerations
Old Business: Rules and Regulations

May 13, 1986

5 appeal considerations

X. Adjournment

President Payne adjourned the meeting at 7:46 p.m.

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4/29/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
April 29, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

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II. Roll Call

APR 28 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- | | |
|------------------------|-------------|
| A. 2710 Market St., #5 | [G40-67(A)] |
| B. 125 Shotwell St. | [G40-68(A)] |
| C. 4210 Balboa St. | [G40-69(A)] |
| D. 230 Lowell St., #3 | [G40-73(A)] |
| E. 1531 Hyde St., #7 | [G40-72(A)] |

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

IX. New Business

X. Appeal Hearing

6:00 p.m. 1. 147 Crown Court, #7 [G38-13(A) first considered
February 11, 1986]

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 29, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: How; Marshall; Payne.
Commissioners not Present: Alviar; Carrico; Chan;
Chinchilla; Curran; Jackson.
Staff Present: Hernandez; O'Hearn.

Commissioner Waller appeared on the record at 6:02 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of April 22, 1986.
(How/Marshall: 3-0.)

IV. Consideration of Appeals

A. 2170 Market Street, #5 [G40-67(A)]

The landlord submitted an appeal seventeen days after issuance of the Remand Decision of the Hearing Officer. The decision is the result of the tenant's appeal filed on October 2, 1985 and accepted by the Board on October 29, 1985. On remand, the hearing officer awarded a rent decrease of \$108.30 for ceiling, floor and shower problems in June 1985. In addition, the hearing officer found an unlawful increase amounting to \$980 in overpayments. The landlord claims justification for the increase even though he had not petitioned for it. He also contests the decrease based on lack of consideration of the time necessary to complete the repairs.

MSF: To deny the appeal. (Marshall/How: 2-1,
Payne dissenting.)

President Payne questioned whether the grounds for decrease are more appropriately a failure to maintain and repair. Failing a majority vote, the Commissioners continued their consideration until later in the meeting. Subsequently, they continued the matter to the next meeting.

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B. 125 Shotwell Street [G40-68(A)]

The landlord appeals the hearing officer's decision on the tenant's petition for decreased services. The hearing officer granted a \$25/month decrease based on roof leaks and lack of maintenance. The landlord contends that the decrease should not apply for months when it did not rain and it should take into account a \$194 offset allowed by the landlord in January 1985.

MSC: To remand the case to another hearing officer for a hearing on the issues raised on appeal. (Marshall/How: 3-0.)

C. 4210 Balboa Street, units 101, 402 & 209
[G40-69(A), G40-70(A) & G40-71(A)]

The tenants submitted their appeals eighteen days after issuance of the Hearing Officer's Decision concerning their rent decrease petitions. The hearing officer granted 20% rent reductions based on lack of adequate heat retroactive to one year prior to the filing of the petitions until December 1985. The tenants contend that the documentation they submitted at the hearing supports retroactivity to November 1983 when their complaints were registered with the Bureau of Building Inspection.

Vice President Marshall indicated that she would remand the case for consideration of the decrease retroactive to 1983 based on the documentation in the record. The Commissioners discussed varying interpretations on their policy directive concerning retroactivity of decreases. There being no consensus, the matter was continued to later in the meeting and subsequently to the next meeting. . . .

D. 230 Lowell Street, units 3 & 4 [G40-73(A)]

The landlord appeals the Hearing Officer's Recommendation that the Board closely monitor this case which originated by the tenants' filing of a report of alleged wrongful eviction. Staff scheduled the case for hearing based on the landlord's failure to respond to staff inquiries and the landlord's attempt to increase the rents without Board approval. The landlord evicted the tenants in August 1985 allegedly to carry out capital improvement work pursuant to Ordinance Section 37.9(a)(11).

MSC: To deny the appeal. (Marshall/Payne: 3-0.)

E. 1531 Hyde Street [G40-72(A)]

A tenant appeals the Hearing Officer's Decision granting capital improvement increases. The tenant, who appeared at the hearing, questions both the costs and the benefit of the improvements.

MSC: To deny the appeal. (Marshall/How: 3-0.)

V. Appeal Hearing

147 Crown Court #7 [G38-13(A)]

The hearing commenced at 6:18 p.m. Both the landlord and the tenant appeared with their representatives. The major issue on appeal is whether the Board is precluded from making a rent overcharge determination based either on lack of Board jurisdiction due to a damage award or on res judicata grounds due to a prior municipal court action.

The overcharge resulted from an increase imposed from May 1983 through December 1985, when the Decision of Hearing Officer was issued. When the increase was implemented, the San Francisco Condominium Code (Section 1390) prohibited rent increases for a period of two years following the filing of a condo application. Such an application for this property was filed in December 1982.

After the hearing concluded, the Commissioners continued their consideration of the matter later in the meeting. Later discussions focused on the municipal court action and the calculation of the overcharge. The Board then decided the case by making the following motion, seconded and carried:

MSC: To adopt the Decision of Hearing Officer with modifications to clarify the total rent overcharge and, taking administrative notice of the municipal court action, to inform the District Attorney of the Board's order in this case. (Marshall/How: 3-0.)

VI. Communications

The Board received and approved the following:

A. Eviction Letters

7321 Geary Blvd., #1	[G140-18(E)]
1090 Hampshire St.	[G138-35(E)]
2947 Folsom St. #1	[G0004-06(E)]

B. Appeal Decisions

334 Precita Ave.	[G36-37(A)]
786 Dolores St.	[G38-3(A) & G38-4(A)]
1275 Greenwich St. #602	[G40-18(A)]

VII. Director's Report

The Executive Director deferred his report on the budget meeting with Mayor Feinstein to President Payne and to Vice President

Marshall who also attended the meeting. The mayor approved the Rent Board's budget request for the next fiscal year. The Commissioners commended Board staff on its well-prepared budget.

The director reported that Delene Wolf, Rent Unit Supervisor, participated in Consumer Day activities on behalf of the Rent Board on April 23rd.

VIII. Calendar Items

May 6, 1986

7 appeal considerations, including 2 continued from 4/29/86
Old Business: Proposed Amendments to Rules and Regulations

May 13, 1986

5 appeal considerations

IX. Adjournment

President Payne adjourned the meeting at 7:50 p.m.

4/30/86:bo'h

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
May 6, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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- A. 2710 Market St., #5 [G40-67(A)] (cont. from 4/29)
 - B. 4210 Balboa St., #s 101, 402 &209 [G40-69(A), G40-70(A) & G40-71(A)] (cont. from 4/29)
 - C. 143 San Carlos Ave. [G40-74(A)]
 - B. 2360-2370 Union St. [G40-75(A)]
 - C. 3560 Divisadero St. [G40-76(A)]
 - D. 543 Buena Vista West [G40-77(A)]
 - E. 1671 Newcomb Ave. [G40-78(A)]
- V. Communications
 - VI. Director's Report
 - VII. Consideration of Allegations of Wrongful Evictions
 - VIII. Old Business
 - Proposed Amendments to Rules and Regulations
 - IX. New Business
 - X. Calendar Items
 - XI. Remarks from the Public
 - XII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 6, 1986, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar; Marshall; Payne; Waller
Commissioners not Present: Chinchilla; Curran; Jackson
Staff Present: Hernandez; Wolf

Commissioner How appeared on the record at 5:34 p.m.;
Commissioner Chan appeared at 5:41 p.m.; and Commissioner Carrico appeared at 5:46 p.m. Commissioner Alviar went off the record at 6:34 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 29, 1986.
(Alviar/Marshall: 4-0).

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IV. Consideration of Appeals

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A. 2170 Market St., #5 [G40-67(A)]

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The landlord submitted an appeal seventeen days after issuance of the Remand Decision of the Hearing Officer. The decision is the result of the tenant's appeal filed on October 2, 1985 and accepted by the Board on October 29, 1985. On remand, the hearing officer awarded a rent decrease of \$108.30 for ceiling, floor and shower problems in June 1985. In addition, the hearing officer found an unlawful increase amounting to \$980 in overpayments. The landlord claims justification for the increase even though he had not petitioned for it. He also contests the decrease based on lack of consideration of the time necessary to complete the repairs.

The Board originally considered this appeal at their meeting of April 29, 1986. After failing to reach consensus as to whether the habitability problems constituted decreased services or were actually a failure to repair, the Board continued consideration of this appeal for one week.

MSC: To excuse Commissioner Carrico from consideration of all appeals.
(Alviar/Carrico: 4-0).

MSF: To deny the appeal. (Marshall/Alviar: 1-3; Alviar, How, Payne dissenting).

MSC: To remand this case to the same hearing officer for consideration of the decreased services award only. (How/Alviar: 4-0).

B. 4210 Balboa St., #101, 209, 402
[G40-69(A), G40-70(A), G40-71(A)]

The tenants submitted their appeals eighteen days after issuance of the hearing officer's decision concerning their rent decrease petitions. The hearing officer granted 20 percent rent reductions based on lack of adequate heat retroactive to one year prior to the filing of the petitions until December 1985. The tenants contend that the documentation they submitted at the hearing supports retroactivity to November 1983 when their complaints were registered with the Bureau of Building Inspection.

The Board originally considered this appeal at their meeting of April 29, 1986. As there was no consensus regarding the Board's Policy Directive concerning retroactivity of decreased services awards, the Board continued consideration of this appeal for one week.

MSF: To remand this case to the same hearing officer for consideration of the retroactivity of the award.
(Marshall/Alviar: 2-3; Alviar, How, Payne dissenting).

MSC: To deny this appeal. (How/Alviar: 3-2; Chan, Marshall dissenting).

C. 143 San Carlos Ave. [G40-74(A)]

Tenant petitioned on the basis of past illegal rent increases and decreased services due to lack of heat and leaking pipes. Hearing officer awarded repayment of overpaid rent and a retroactive rent reduction for the lack of heat, but found that the leaky pipes constituted a failure to repair and were more appropriately a possible defense to any future rent increase. In their appeal, landlords maintained that: they understood the situation to have been resolved and thought that tenant was going to withdraw his petition; tenant had removed the heater and refused a new one; and that the amounts slightly in excess of the guidelines should be offset against capital improvements made.

MSC: To deny this appeal. (Marshall/Chan: 5-0).

D. 2360-2370 Union St. [G40-75(A)]

Landlord petitioned to pass on the cost of a new roof. Hearing officer denied the capital improvement pass-through as tenant proved that the work was not done satisfactorily or properly, and water leakage still occurred. On appeal, landlords submitted proof that necessary repairs had been made since the hearing, and requested that the work now be certified.

MSC: To deny this appeal. (Chan/Marshall: 3-2; Alviar, Payne dissenting).

E. 3560 Divisadero St. [G40-76(A)]

Landlord appealed hearing officer's disallowance of a 7 percent annual increase since it was given during a period when the allowable yearly increase was limited to 4 percent. Owner's appeal merely stated that the anniversary date stated in the decision was incorrect. Although the appeal mentioned supplementary documentation might follow, none was received.

MSC: To uphold the hearing officer and deny the appeal. (Marshall/Chan: 5-0).

F. 543 Buena Vista West [G40-77(A)]

Landlord petitioned for increases based on real and prospective increased operating expenses, and was granted the maximum 7 percent allowed under Rules and Regulations Section 6.10. On appeal, landlord maintains that he is being deprived of a "fair return" on his investment.

MSC: To deny this appeal. (Marshall/Payne: 5-0).

G. 1671 Newcomb Ave. [G40-78(A)]

Tenants petitioned regarding past illegal rent increases and were awarded retroactive reimbursement of sums overpaid. They also alleged decreased housing services and failure to maintain and repair based on a faulty back stairway and worn kitchen floor. Hearing officer found that these items constituted landlord's failure to make necessary repairs, which would prohibit any rent increases from being imposed until the conditions were rectified. On appeal, landlady maintains that she failed to attend the hearing because she thought the property was sold; that tenants had an erratic rent history and had illegally sub-let; and that repayment would present a hardship to her.

MSC: To accept this appeal for a hearing at the Board level. (How/Marshall: 5-0).

V. Communications

The Board received the following communications:

A. Board decisions in the following cases:

1. 107 Noe St. - This decision was approved by the Board and signed by President Payne; a typographical error on page 2 will be corrected.
2. 363 Arguello #4 - This decision was approved by the Board and signed by President Payne with the following correction: throughout the decision, where it states that the landlord testified, it shall be changed to her representative testified.
3. 244 Grattan #6 - This decision was approved by the Board and signed by President Payne with the following correction: Finding of Fact #3 will be deleted.

B. A current list of hearing officers.

C. Workload statistics for the month of April.

D. A letter from a Parkmerced resident expressing concern regarding Parkmerced's lease renewal policies.

VI. Old Business

The Board continued its discussion of proposed changes to the Rules and Regulations. The following proposals were passed:

[Note: All Rules and Regulations changes are based on the draft dated April 15, 1986. Additional changes that have been passed by the Board are contained in the Minutes of March 11, 1986.]

1. Banking

- (a) A landlord who refrains from imposing an annual rent increase, or any portion thereof, may accumulate said increase and impose that amount on or after the tenant's subsequent rent increase anniversary date; however, the rent may be increased only one time every twelve (12) months. This banked amount may only be given at the time of an annual increase. Only those increases which could have been imposed on, or subsequent to April 1, 1982, may be accumulated. A full 12 months must have elapsed from the date that an annual rent increase, or a portion thereof, could have been imposed before this banking section becomes applicable. Banked increases shall not be compounded; provided, however, that in the event of retroactive

compounded banked increases, hearing officers shall readjust the base rent to reflect the properly banked amounts.
(Carrico/Payne: 4-0).

2. Decrease in Services

(c) Except in extraordinary circumstances, or where there have been long term verifiable oral or written notices to a landlord of decreased services, no rent decrease for over twelve (12) months will be allowed, nor shall consideration be given to an issue that arose prior to one year preceding filing of the petition. This provision shall not limit any civil remedies that would otherwise be available to a tenant or landlord.

(Payne/Carrico: 4-0).

Proposed changes to Sections 4.11, 6.10 and 12.15 are still in the process of revision. Commissioner Carrico is working on Sections 4.11(c)(2) and (3); Commissioners Carrico and Marshall will meet regarding Section 6.10; and consideration of Section 12.15 will wait until Commissioner Curran returns.

VII. Calendar Items

May 13, 1986

5 appeal considerations

Old Business: Rules and Regulations

May 20, 1986

3 appeal considerations

Appeal Hearing: 1671 Newcomb [G40-78(A)]

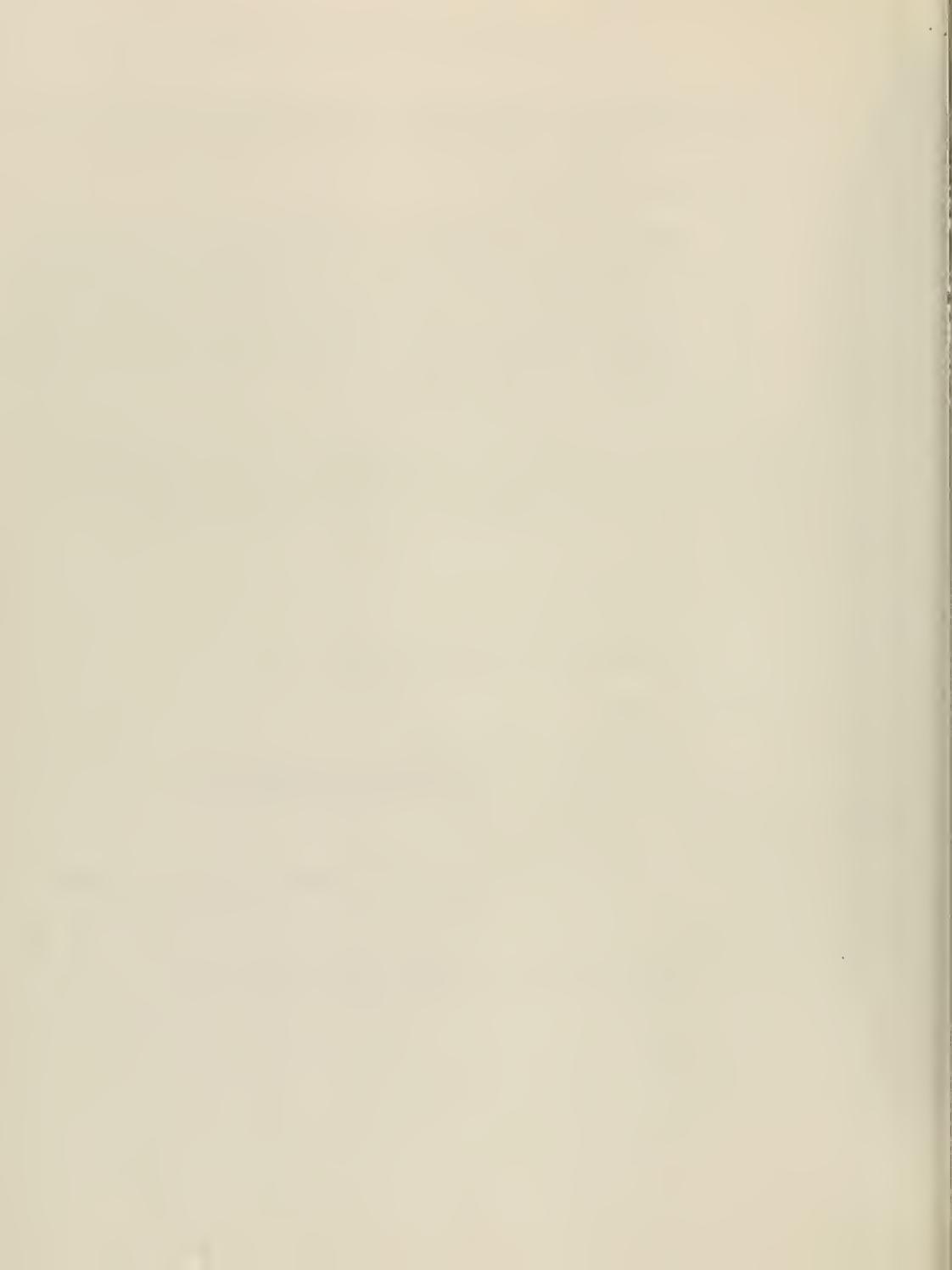
Old Business: Rules and Regulations

VIII. Remarks from the Public

Ted McCalla asked questions regarding Rules Sections 10.10(c) and 6.10.

IX. Adjournment

President Payne adjourned the meeting at 8:26 p.m.





**NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,**

May 13, 1986 at 5:30 p.m.
State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 38 Staples Ave.	[G40-79(A)]
B. 125 Leese St.	[G40-80(A)]
C. 630/632 6th Ave.	[G40-81(A)]
D. 906 Union St.	[G40-82(A)]
E. 400 Hyde St.	[G40-83(A) - 38 units]

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business

Rules and Régulations

- IX. New Business
- X. Appeal Hearing
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 13, 1986, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:38 p.m.

86 II. Roll Call

Commissioners Present: Chan, Curran, Marshall, Payne,
Waller
Commissioners not Present: Alviar, Chinchilla, Jackson
Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 5:42 p.m.
Commissioner How appeared on the record at 5:47 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 6, 1986, with
the following corrections:

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a. P. 5, item 2: To delete the vote and
replace with: "It was the consensus of the
Board to continue this discussion to the next
meeting."

b. To correct the spelling of "concensus" to
"consensus" throughout. (Marshall/Chan:
4-0).

IV. Consideration of Appeals

A. 38 Staples [G40-79(A)]

The tenant appealed the Hearing Officer's ruling that found the alleged decreases in service to more properly be failures to maintain and repair, and that a problem with the back yard was under the control of the tenant. The tenant maintained that there was a long history of retaliation and bad faith on the owner's part; and she disagreed that the decreases were not substantial, as shown in a previously successful tenant's petition.

MSC: To uphold the Hearing Officer and deny the appeal. (Curran/Carrico: 5-0).

B. 125 Leese St. [G40-80(A)]

The landlord appealed the Hearing Officer's decision which declared null and void three annual rent increases which

were above the allowable guideline amount, for a total of 30.3 percent instead of the aggregate allowable 15 percent. Landlord maintained on appeal that an incorrectly timed increase should be prorated; asked that a 7.2 percent annual increase be considered to be 6.7 percent since it applied to a fourteen month period; and mentioned errors in dates noted in the decision.

MSC: To deny the appeal and uphold the Hearing Officer's decision; with a technical correction on p. 2, #4, to read: "Effective April 1, 1982...." (Carrico/Marshall: 4-1; Commissioner Payne dissenting).

C. 630-632- 6th Ave. [G40-8(A)]

The appeal of the landlord questioned the Hearing Officer's ruling, which divided by three the costs of capital improvements to the roof of the structure. The Hearing Officer had agreed with the tenants that the ground level garage - within the exclusive control and use of the owner - should share in the costs. On appeal the owner contended the expenses should be borne by the two residential units only, and stressed that the garage is used primarily in connection with maintenance of the building.

MSC: To remand the case to the Hearing Officer with instructions to recalculate the capital improvement pass-through, excluding the garage. (Carrico/Chan: 4-1; Commissioner Marshall dissenting).

D. 906 Union St. [G40-82(A)]

Landlord appealed the determination of the Hearing Officer that ruled a multi-unit structure constituted a five unit building, thereby making it subject to the jurisdiction of the Rent Ordinance. Accordingly, an over-the-guideline rent increase was declared null and void; and tenant received a decrease in service award. On appeal owner maintained that the property contained a four-unit, owner-occupied exempt building and a detached one unit building; therefore the subject building was not under the jurisdiction of the Ordinance. On cross-appeal, tenant argued that the property was not exempt and protested the amount of the award for loss of garage use.

MSC: To accept the appeal and schedule a hearing at the Board level. Each side will be allowed five (5) minutes each to present oral argument on the jurisdictional issue only; no further written legal argument will be accepted. (Marshall/Carrico: 5-0).

E. 400 Hyde St. [G40-83(A)]

The ruling of the Hearing Officer concerning an operation and maintenance increase was appealed by the landlord. Owner contended that some properly incurred expenses had not been allowed and certain calculations were inaccurate.

MSC: To deny the appeal but ask staff to see if technical corrections can be made without another hearing; if not, staff will reschedule the case with a Hearing Officer to make technical corrections.
(Marshall/Chan: 5-0).

V. Communications

- A. The minutes from the May 12, 1986, Small Business Commission meeting were distributed.
- B. A cautionary letter to Parkmerced management, concerning lease renewals, was signed by President Payne.
- C. The decisions for 244 Gratten and 363 Arguello #4 were signed.
- D. A request for continuance of the consideration at 349 Oak was granted.
- E. Rough eviction statistics for the current fiscal year, prepared by the Eviction Unit for Supervisor Kopp, were given to the Commissioners.
- F. The attorney for the appellant at 573- 6th Ave. withdrew the appeal because of a court settlement.

VI. Director's Report

- A. Executive Director Ricardo Hernandez will speak at the breakfast meeting of the Chinese Real Estate Association on May 28 and June 4, 1986.
- B. Mr. Hernandez reported on the upcoming supplemental budget meeting in which monies already granted will be shifted as needed.
- C. At the May 20, 1986 meeting of PH&D, amendments to the Rent Ordinance will be discussed; specifically, an increase in filing fees and a 26 percent ownership requirement for owner/relative evictions.

VII. Old Business

A. Rule 4.11

Commissioner Carrico submitted a draft of the PG&E proposed change. Staff will adjust the format and test the formula. The Board approved the basic language of this draft.

B. Rule 12.15

The Commissioners approved the proposed draft of Rule 12.15, to read as follows:

Section 12.15 Notices Regarding Capital Improvement Work

- A. For purposes of an eviction under Section 37.9(a)(11) of the Ordinance, the capital improvement and/or rehabilitation work to be done must involve work that would make the unit hazardous, unhealthy, and/or uninhabitable while work is in progress. If there is a dispute between the landlord and tenant as to whether the work that is to be performed creates a hazardous or unhealthy environment, the tenant may file a report of alleged wrongful eviction with the Board to hear the matter.
- B. Copies of all necessary permits, a description of work to be done and a reasonable approximate date when the tenant can re-occupy the unit shall be given to the tenant prior to or along with the notice to vacate. The tenant will vacate the unit only for the minimum time required to the the work.

MSC: To approve Rule 12.15 as written.
(Curran/Marshall: 5-0).

C. Rule 10.10

The Commissioners approved the proposed Rule 10.10 as follows:

Section 10.10 Decrease in Services

Except in extraordinary circumstances, or where there have been long term verifiable oral or written notices to a landlord of decreased services, no retroactive rent decrease for over twelve (12) months will be allowed, nor shall consideration be given to an issue that arose prior to one year preceding filing of the petition. This provisions shall not limit any civil remedies that would otherwise be available to a tenant or landlord.

MSC: To approve Rule 10.10 as written.
(Marshall/Payne: 5-0).

VIII. Calendar Items

May 20, 1986

1 appeal consideration
5:45 - 1 appeal hearing: 1671 Newcomb [G40-78(A) original
consideration May 6, 1986]
Eviction Report
3624- 17th St. G166-81(E)
Old Business - Rules and Regulations

May 27, 1986

3 appeal considerations
1 appeal hearing: 906 Union [G40-82(A) original
consideration May 13, 1986]
Old Business - Rules and Regulations

June 3, 1986

NO MEETING (Election Day)

IX. Adjournment

President Payne adjourned the meeting at 7:32 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

May 20, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

MAY 20 1986

III. Approval of the Minutes

SAN FRANCISCO
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IV. Consideration of Appeals

A. 1413 15th St. [G40-85(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 3624- 17th St. [G166-81(E)]

VIII. Old Business

Rules and Regulations

IX. New Business

X. Appeal Hearing

5:45 p.m. 1. 1671 Newcomb Ave. G40-78(A) first considered 5/6/86

XI. Calendar Items

3624- 17th St. [G166-81(E)]

XII. Remarks from the Public

XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 20, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

*****DOCUMENTO DEPT*****

MAY 28 1986

I. Call to Order

SAN FRANCISCO
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President Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Chan; Curran; Marshall; Payne;
Waller.

Commissioners not Present: Alviar; Chinchilla; Jackson.

Staff Present: Hernandez; O'Hearn.

Commissioner Carrico appeared on the record at 5:47 p.m. and
Commissioner How appeared at 5:52 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of May 13, 1986.
(Marshall/Curran: 4-0.)

IV. Consideration of Appeals

1413-15th Street [G40-85(A)]

The landlord appeals the hearing officer's determination that the building consists of five instead of four residential units. The hearing officer granted the tenant's petition challenging a rent increase from \$320.42 to \$500 per month to be effective six months after the owner began occupancy at the property.

On May 20, 1986 the landlord requested a continuance because a tenant in another unit at the building also had filed a petition. It was heard before the hearing officer on May 14, 1986. The landlord expressly waived time for the Board's consideration on the first petition in order to consolidate both petitions on appeal.

MSC: To continue the appeal at least 30 days for consolidation with an expected appeal of the decision on the second petition. (Curran/Payne: 4-0.)

V. Communications

A. 573-6th Avenue [G40-84(A)] - withdrawal of appeal.

B. May 14, 1986 letter to the Executive Director confirming his engagement at the upcoming Wednesday breakfast meetings of real estate brokers and agents to discuss landlord and tenant problems.

VI. Director's Report

The Executive Director informed the Board of recent activites concerning the Rent Ordinance before the Planning, Housing and Development (PH&D) Committee of the Board of Supervisors, as well as the full Board of Supervisors. PH&D called a special meeting at 9:00 a.m. on May 19th to consider proposed amendments to the Rent Ordinance which respond to state legislation allowing landlords to go out of the rental business. The proposed amendments were passed out of Committee and sent to the full Board for its meeting that day. The Board of Supervisors approved for its first reading.

At the regular PH&D meeting on May 20th, the Committee held a hearing on another proposed amendment to the Rent Ordinance which would require that owners evicting for their own occupancy have at least a 26% interest in the property. The Committee continued the matter to its next meeting.

Additionally, the Committee considered proposed changes to the demolition permit process which triggers the eviction cause under Section 37.9(a)(10) of the Rent Ordinance. The Committee also continued this matter.

VII. Consideration of Allegation of Wrongful Eviction

3624 - 17th Street [G166-81(E)]

The Eviction Unit Supervisor, Alicia Wicks, reported on this case to the Board and submitted copies of her summary, correspondence and Recommendation of the Hearing Officer. The landlord failed to appear at the hearing on April 30, 1986 and has failed to give a sufficient notice to evict for his occupancy of the tenant's unit.

Although the tenant recently moved out due to the landlord's continual harassment, staff recommended that the Board send a strongly worded letter to the landlord.

MSC: To adopt the recommendation of staff to send a letter.
(Curran/Marshall: 5-0.)

VIII. Old Business

The Commissioners did not wish to give final approval to the proposed changes for the PG&E passthrough regulation until they had received some sample calculations from the Executive Director.

IX. Appeal Hearing

1671 Newcomb Ave. [G40-78(A)]

The Board considered the landlord's appeal in this case on May 6, 1986. Notice of the appeal hearing was mailed to the parties on May

8th. However, the landlord failed to appear without any known excuse. One of the tenants and their attorney appeared.

At least a half hour after the scheduled hearing time, the Commissioners discussed postponement or possible dismissal of the appeal. The Board decided to continue the case for one week.

X. Calendar Items

The Commissioners discussed the upcoming 7 year birthday of the San Francisco Rent Ordinance on June 13th. Staff proposed hosting a reception at the Board offices during the afternoon. The Commissioners agreed to help pay for a cake and other refreshments. The Executive Director will estimate necessary funds next week.

May 27, 1986

3 appeal considerations

2 appeal hearings: 906 Union [G40-82(A) considered May 13, 1986]
1671 Newcomb Ave. [G40-78(A) cont. from May 20, 1986]

Old Business - Rules and Regulations

June 3, 1986

NO MEETING (Election Day)

XI. Remarks from the Public

A member of the public addressed the Board to oppose the Board's consideration, by policy and proposed regulation, of prospective debt service when determining the justification for an increase based on increased operating and maintenance expenses.

XII. Adjournment

President Payne adjourned the meeting at 6:29 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 27, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

MAY 20 1986

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I. Call to Order

Vice-President Marshall called the meeting to order at 5:41 p.m.

II. Roll Call

Commissioners Present: Chan; Chinchilla; Curran; How;
Marshall; Waller

Commissioners not Present: Alviar; Jackson; Payne

Staff Present: Hernandez; Wicks; Wolf

Commissioner Carrico appeared on the record at 5:49 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 20, 1986 as written. (How/Chinchilla: 4-0).

IV. Consideration of Appeals

A. 6408 Geary Blvd. [G40-87(A)]

Tenant petitioned regarding decreased housing services and landlord's failure to repair. The Hearing Officer granted a rent reduction due to diminished water heater capacity and denied the annual increase until leaking windows are repaired or replaced. In his appeal, the landlord maintains that the tenant refused him access to make the repairs, alleges that the tenant perjured himself, and expresses concern at the fact that the taped record of the hearing is incomplete.

MSC: To deny this appeal.
(Curran/Chinchilla: 4-0).

B. 153 Noe St. [G40-88(A)]

Tenant petitioned regarding decreased housing services, namely the removal of access to storage space, and an increase above the guidelines. The Hearing Officer ordered a rent reduction due to the loss of storage space, and repayment of null and void rent increases as two of the original tenants still resided on the premises.

MSC: To remand this case for another hearing to establish who the tenants were, the relevant periods of tenancy, pro-rata shares of the award owed to each tenant, and forwarding addresses; and to re-examine the decrease in services issue. (Chinchilla/Curran: 4-0).

C. 580 McAllister St. [G40-89(A)]

Landlord petitioned for rent increases due to increased operating expenses that will be incurred due to prospective debt service. The Hearing Officer failed to allow such increases. Several tenants petitioned for denial of the annual rent increase due to landlord's failure to repair, and said increases were denied in three cases. Upon appeal, landlord requests that the Board issue a determination regarding the issue of prospective debt service, alleges that the Hearing Officer made a critical error regarding the transfer of ownership, and asserts that the repair items were insignificant and not previously requested by the tenants.

MSC: To accept this appeal and schedule a hearing at the Board level on the issue of prospective debt service only.
(Curran/Chinchilla: 3-1; Carrico dissenting)

D. 265 Fell St., #606 [G40-90(A)]

Tenant petitioned regarding a \$100 increase in rent due to an alleged violation of the rental agreement. The Hearing Officer found in tenant's favor, ruling that the original lease allowed for three persons in the unit, and ordered repayment of the null and void increase. In his appeal, the landlord alleges that the tenant tampered with the rental agreement and maintains that it allowed for occupancy by one person only.

MSC: To remand this case to the same Hearing Officer for another hearing to examine the original lease and make a Finding as to which lease is valid. (Carrico/Curran: 4-0).

E. 480 Ellis St. [G40-91(A)]

Tenant petitioned the Rent Board regarding a rent increase in excess of the guidelines. The issue was whether or not the subject residential hotel falls within the jurisdiction of the Rent Ordinance as a rehabilitation loan was obtained from the Mayor's Office of Housing and Economic Development at less than market rates. Hearing Officer found that this and the accompanying Regulatory Agreement constituted a subsidy and outside regulation sufficient to exempt the property from the provisions of the Rent Ordinance.

MSC: To deny this appeal.
(Carrico/Marshall: 4-0).

V. Consideration of Allegations of Wrongful Evictions

The Eviction Unit Supervisor reported on the following cases which had already come before the Board and which the Eviction Unit has continued to monitor:

A. 2807-2809 Bryant St.

This case was heard by the Board to determine if the tenants were being wrongfully evicted. Their temporary 3-month removal for construction had dragged on for over eight months, with no explanatory word from the owner. The Board arrived at a May 1, 1986 move-in date and ordered a compliance hearing before a Hearing Officer, who found substantial continuing evidence of bad faith on the owner's part.

MSC: To conduct an in-house examination of this case, including an assessment of damages and evaluation of possible civil remedies; and to send a strong letter to the landlord.
(Chinchilla/Carrico: 4-0).

B. 2010 Vallejo St.

The Commissioners voted to send the owner a cautionary letter pursuant to the recommendation of the Hearing Officer and staff. Tenant had received a series of defective eviction notices for various reasons.

Now the owner is pursuing an eviction based on a Bureau of Building Inspection notice to remove this unit from housing use. The notice was given in the late 70's, several years before this tenant took up residence. Although the information is unclear, it appears another "illegal" unit in the building was the one cited; when the tenant began asking for repairs recently, the eviction notices began and BBI report was activated, now citing this tenant's unit.

MSC: To send a strong letter to the owner and continue to monitor this case for another 30 days. (Chinchilla/Carrico: 4-0).

C. 1565 Jackson St., #10

The tenant in this case moved in with a former tenant in 1982, and had her personalized checks accepted by the landlord since that time. In October 1985, owner sent tenant a defective eviction notice for owner occupancy; tenant filed with the Rent Board. On November 1985, owner

served tenant with a technically proper eviction notice for the unapproved tenancy of the current tenant.

At the hearing, owner maintained he did not know of tenant's occupancy before the summer of 1985; documents in the file controverted this testimony. He also indicated that he had considered having his nephew live in the unit. Owner stated that he is in arrears on costs due on the property and needs higher rents; he believes he could get almost double the current rent if the unit were vacant. He wants the tenant to either pay higher rent or move. The Hearing Officer found the eviction attempt clearly wrongful, and landlord's appeal was denied by the Board. Landlord is now refusing to cash tenant's rent checks.

MSC:- To send a strong letter to the owner advising him that the Board will pursue the case if he continues in this improper eviction attempt.

VI. Appeal Hearing

A. 906 Union St. [G40-82(A)]

The hearing commenced at 6:58 p.m. Appearing were the landlord's attorney, Charles Wolff, tenant John McManis, and tenant's representatives David Zalob and Donald Mull.

Landlord had appealed the determination of the Hearing Officer that ruled a multi-unit structure constituted a five unit building, thereby making it subject to the jurisdiction of the Rent Ordinance. Accordingly, an over-the-guideline rent increase was declared null and void; and tenant received a decrease in service award. On appeal owner maintained that the property contained a four-unit, owner-occupied exempt building and a detached one-unit building; therefore the subject building was not under the jurisdiction of the Ordinance. On cross-appeal, tenant argued that the property was not exempt and protested the amount of the award for loss of garage use.

At their May 13th meeting, the Board voted to accept the appeal and schedule a hearing at the Board level with oral argument on the jurisdictional question only. Landlord's attorney argued that the language in the Ordinance mandates that each building must be assessed separately and does not allow for buildings to be aggregated. Tenant's representatives attacked a 1981 Minute Order of Judge Phillip Moscone as lacking in precedent value and asserted that the facts in this case are entirely different.

The hearing closed at 7:21 p.m. and the Board discussed past and present Board policy regarding the owner-occupancy exemption when there are two buildings on the same lot. There was some sentiment that the current policy may not be correct; discussion of the ramifications of changing policy in mid-stream; and concerns regarding consistency should the issue be decided on a case-by-case basis. It was the consensus of the Board to continue discussion of this case for two weeks.

B. 1671 Newcomb [G40-78(A)]

The Board considered the landlord's appeal in this case on May 6, 1986. A hearing was scheduled for May 20, 1986 but the landlord failed to appear. The Board continued the case for one week, and the landlord contacted Rent Board staff in the interim and alleged that she had not received timely notice. The landlord and her son appeared for this regularly scheduled hearing, as did the tenants, who were accompanied by their attorney. Prior to the hearing being convened, one of the tenants became seriously ill, and it was the consensus of the Board to again continue this case.

VII. Communications

- A. Vice-President Marshall signed the Board's decision in Appeal Case No. G38-13(A), 147 Crown Court, #7.
- B. The Board received letters concerning the appeal considerations at 265 Fell Street, 2010 Vallejo Street, and 580 McAllister Street.

VIII. Director's Report

- A. Executive Director Hernandez reported that the Board of Supervisors approved the 13th Just Cause for Eviction, which is in response to state legislation (the Ellis Bill) which allows landlords to go out of the rental business. It will be necessary for the Board to hold a Public Hearing on rules changes necessary to implement compliance procedures.
- B. Mr. Hernandez notified the Board that the Planning, Housing and Development Committee of the Board of Supervisors has continued consideration of amendments to the rent law to its June 3rd meeting. The proposed amendments would raise the percentage of interest in a building to 26 percent for owner or relative occupancy, and would raise the Rent Board's filing fees.

C. Director Hernandez informed the Board that the budget cycle begins next month and that he will probably be going before the Finance Committee on the last Thursday or Friday in June.

IX. New Business

Commissioner Carrico requested an opinion from Deputy City Attorney Kathryn Pennypacker regarding the issue of the owner-occupancy exemption when there are two buildings on the same lot.

X. Calendar Items

June 3, 1986

No meeting (Election Day)

June 10, 1986

5 appeal considerations
Executive Session: 147 Crown Court

Old Business:

906 Union St. [(G40-82(A))]

Rules and Regulations

XI. Adjournment

Vice-President Marshall adjourned the meeting at 8:12 p.m.



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6/10/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

June 10, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Executive Session (Klein v. S. F. Rent Stabilization Board)

II. Call to Order

III. Roll Call

IV. Approval of the Minutes

V. Consideration of Appeals

DOCUMENTS DEPT.

MAY 30 1986

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A.	171 Coleridge	[G40-92(A)]
B.	565 Geary St., #304	[G40-93(A)]
C.	645 Leavenworth/ 825 Post	[G40-94(A), G41-03(A)]
D.	951 Chenery St.	[G41-04(A)]
E.	120 10th St.	[G41-05])

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

IX. Old Business

906 Union St.

X. New Business

Rules and Regs

XI. Appeal Hearing

6:15 p.m. 1. 580 McAllister St.

XII. Calendar Items

XIII. Remarks from the Public

XIV. Adjournment

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6/10/86 Corrected

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 10, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEP

I. CALL TO ORDER

JUN 30 1986

President Payne called the meeting to order at 5:34 p.m.

SAN FRANCISCO
PUBLIC LIBRARYII. ROLL CALL:

Commissioners Present: Alviar, Chinchilla, Marshall, Payne

Commissioners Not Present: Curran, Jackson, Waller

Staff Present: Hernandez, Wicks

Commissioner How appeared on the record at 5:35 p.m.; Commissioner Carrico at 5:49 p.m.; and Commissioner Chan at 5:50 p.m. Commissioner Payne went off the record at 6:52 p.m..

III. EXECUTIVE SESSION:

The Board went into Executive Session, pursuant to Government Code Section 54956.9(a), to discuss matters in litigation. They returned on the record at 6:22 PM and made the following motion:

MSC: Pursuant to the Superior Court Ruling in Case No. 49-586, the Board elects to vacate its decision of July 16, 1985, and to accept appeal cases F22-9(A) and F22-12(A) concerning 3848 Sacramento and to schedule an appeal hearing before the Board for July 1, 1986.

(Chinchilla/Marshall: 5-0)

IV. APPROVAL OF THE MINUTES:

MSC: To approve the Minutes of May 27, 1986, with the following corrections:

page 1, II.: Commissioner Chinchilla went off the record at 7:45 p.m.

page 2, IV. C.: 580 McAllister St.:

MSF: To deny the appeal.

(Chinchilla/Marshall: 2-2; Carrico and Curran dissenting)

page 3, V. C.: 1565 Jackson St. #10:

It was the consensus of the Board to send a strong letter to the owner, advising him that the Board will pursue the case if he continues in this improper eviction attempt.

V. CONSIDERATION OF APPEALS

A. 171 Coleridge [G40-92(A)]

The landlord appealed the ruling of Hearing Officer which declared null and void a rent increase from \$728 to \$900. Tenant gave a notice of terminating tenancy, effective June 1, 1985; she stated in appeal rebuttal that she believed she had to vacate since her roommate was leaving. A new roommate was found and agreement reached that tenant could stay at a new "trial" rent of \$880 for a three month period. At the end of the three months, landlord allowed the tenants to remain at a rent of \$900. Landlord did have a prospective replacement tenant during the two weeks the subject tenant's termination notice was in effect, but he did not incur any expenses. The landlord maintained on appeal that a new tenancy was created after tenant gave her notice to vacate and that there was no limit on the rent that could be charged for this new tenancy. Landlord also argued that the Hearing Officer had not granted him the annual 4% increase and that tenants paid \$900 for 7 months, not 9 months. In rebuttal, the tenant stated that she had said she would move only because the owner said he could raise the rent when the former roommate vacated.

MSC: To deny the appeal and remand the case to Staff for a technical correction to revise the award to reflect the proper 7 month, not 9 month, period. (Marshall/Alviar: 4-1, Chinchilla dissenting)

B. 565 Geary St. #304 [G40-93(A)]

The landlord appealed the Hearing Officer's determination on remand, contesting a 2% decrease in services award for reduced janitorial service. The landlord asserted the belief that there has been no decrease in this service; and that even assuming that service had been reduced, it would not constitute a substantial decrease, as is required by the law.

MSC: To accept the appeal and schedule the case for a hearing before the Commissioners in two weeks.
(Carrico/Alviar: 5-0)

C. 645 Leavenworth/ 825 Post [G40-94(A) through G41-03(A)]

Nine tenants appealed the decision of the Hearing Officer, heard on remand on three limited issues: decreases in service for heat, hot water, and incorrect utility passthrough. On remand the Hearing Officer found that tenants had not carried their burden of proof in the decrease of services matter, in that insufficient and confusing documentation was presented. She was therefore unable to determine the nature and extent of the decreases and which units were involved. The figures submitted by the tenants for utility passthroughs were accepted as the basis for the calculations. On appeal tenants maintained that the involved rent increases should be ruled null and void since a decrease in the utility passthrough was not correctly calculated or reflected in the increase notices.

MSC: To accept the appeal and schedule the case for an appeal hearing before the Board in two weeks.

(Marshall/Alviar: 5-0)

D. 951 Chenery [G41-04(A)]

One of two landlords appealed the ruling of the Hearing Officer which addressed tenants' petition for reduction in rent for elimination of use of rear door and stairway, broken locks on the windows, and trash accumulation. Hearing Officer did not grant an award for the locks or trash but did grant a reduction for the removal from any use of the back landing and stairs. Tenants argued that the stairs led to the backyard, garage, and garbage cans; they testified that the alternate route available to them was steep and somewhat treacherous. The property was cited by BBI for the stairs; the other landlord agreed that she thought the structure should be replaced and that the tenants should receive a larger award than they requested. Appealing landlord stated that the tenants have alternate access to the back yard which they have, in fact, routinely used.

MSC: To uphold the Hearing Officer and deny the appeal.
(Marshall/Alviar: 3-2; Carrico and Chinchilla dissenting)

E. 120-10th Street [G41-05(A)]

Landlord filed an appeal concerning the determination of the Hearing Officer that granted capital improvement increases (minus costs attributable to commercial units), operating and maintenance increases; but which also awarded tenants a reduction for conversion to separate utility meters and which declared null and void the

involved rent increase notices since they did not itemize these various expenses. Landlord objected to the recalculation of capital improvement costs, to the formula used for compensating tenants for now paying their own electricity, and for declaring the increase notices invalid for a "minor technicality."

MFS: To deny the appeal and uphold the Hearing Officer; and to remand to Staff for a technical correction of the capital improvement pass-through.

After discussion, the Commissioners renewed, seconded, and passed the original motion:

MSC: To deny the appeal and uphold the Hearing Officer's decision; and to remand the case to Staff for a technical correction of the capital improvement pass-through.

(Marshall/Chinchilla: 5-0)

VI. APPEAL HEARING: 580 McAllister [G40-89(A)] (first considered May 27, 1986)

A hearing on this matter was scheduled for 6:15 PM and began on the record at 6:57 PM. Testifying were: landlord Russell B. Flynn and his representative, Monica Jones; Tenants Bill Robathan, Kee Y. Park, Eric Ismay, Enrique Hernandez, Minnie Whitehead, and representative Milo Nadler.

Background:

The landlords had petitioned for rent increases due to increased operating expenses that would be incurred due to prospective debt service. The Hearing Officer did not allow this increase. Several tenants also petitioned for denial of the annual increase due to the landlords' failure to repair; said increases were denied in three instances. Upon appeal, the landlords requested that the Board issue a determination regarding the issue of prospective debt service; alleged that the Hearing Officer made a critical error concerning the transfer of ownership; and asserted that the repair items were insignificant and not previously requested by the tenants. The Commissioners voted to accept the appeal and schedule an appeal hearing at the Board level, on the issue of prospective debt service only.

At the appeal hearing both sides presented general philosophical arguments about prospective debt service, as well as specific concerns about the increase in question. Several tenants expressed great concern that two units inhabited by elderly, incapacitated tenants should not get any increase other than the annual 4% increase, since they were on low, fixed incomes. The 0128C

landlord agreed that consideration would be given to their specific situations, and that these tenants must contact the landlord on this issue. Tenant Hernandez pointed out that management had required him to pay the annual 4% increase despite the Hearing Officer's ruling that no increase should be paid until repairs were completed. Landlord agreed to remedy this situation. It was also agreed that no other allowable increases would go into effect, for those involved tenants, until full repairs had been made. The hearing was closed at 7:50 PM.

After considerable discussion, the Board voted as follows:

- MSC1: To allow the operating and maintenance increase as petitioned for. This decision is not to be construed as precedential for future cases.
- MSC2: Landlord shall consider the hardship situations of the two units involved, provided the subject tenants contact landlords on this matter.
- MSC3: Landlord shall adjust the rent for Mr. Hernandez to reflect his successful failure to maintain and repair award. All other tenants for whom a rent increase delay was granted shall pay neither the 4% annual increase nor 7% operating and maintenance increase until all stated repairs have been made.

(Carrico/Alviar: 3-1; Marshall dissenting)

VII. COMMUNICATIONS:

- A. Two letters were received from the landlord's attorney relating to Appeal G38-13(A), 147 Crown Court, concerning the need for technical corrections in the Board's appeal decision. The decision, with technical corrections, was approved.
- B. A copy of the Mayor's proposed budget for the fiscal year 1986-7 was given the Commissioners.
- C. The Rent Board statistics for the month of May were distributed.
- D. A Hearing Officer's appeal responses for 951 Chenery and 120-10th Street were submitted for the consideration of the Commissioners.
- E. PUC Rule 18, dealing with submetering of electric energy, was distributed for the information of the Board.

- F. Statements concerning appeal considerations were received for 120-10th Street, 951 Chenery, as well as for the appeal hearing at 580 McAllister.
- G. Two landlords wrote the Board asking that they consider raising the minimum annual rent increase amount from 4% to 7-10%.
- H. Copies of the new 13th just cause under Ordinance Section 37.9(a)(13) were given out to the Commissioners. Further discussion on this matter will be scheduled in the near future.

VIII. DIRECTOR'S REPORT

- A. Executive Director Ricardo Hernandez reported that it was expected that the proposed budget for the coming fiscal year would be adopted with only minor changes.
- B. The Rent Board is scheduled to appear before the Finance Committee at 2:00 PM on June 17, 1986. Any Commissioners who wish to attend are encouraged to do so.
- C. Any PH&D items impacting on the Rent Law will be considered in July.
- D. The Commissioners were reminded of the invitation to attend the Rent Board's 7th birthday party from 2:30-5:30 on Friday, June 13.

IX. OLD BUSINESS:

- A. 906 Union St. [G40-82(A)] (appeal hearing held May 27, 1986, and continued to June 10, 1986)

After considerable discussion of the philosophy and legal ramifications of the Board's practice in handling these cases on the basis of each separate building, not assessor lots, the Board voted as follows:

MSC1: To excuse Commissioner Alviar from this vote.
(Chinchilla/Carrico: 4-0)

MSC2: To reverse the Hearing Officer and find that the unit in question is beyond the jurisdiction of the Ordinance because it is owner-occupied exempt.
(Chinchilla/Carrico: 3-0)

X. CONSIDERATIONS OF ALLEGATIONS OF WRONGFUL EVICTIONS

A. Staff Report: Eviction Unit Supervisor Alicia Wicks reported to the Commissioners on the following cases:

1. 1946 Baker [G166-06(E)]

The tenant has resided in her unit for 5 years. Her rental agreement stated that no alterations would be made without the owner's prior consent. When the tenant asked for painting and repairs, she was given tacit permission to do the work herself at her own expense. Care was taken to stay within the current color and decorating scheme. When the owner inspected some of the work, she raised no comment. When no response was received for permission to do more cosmetic work, tenant proceeded. Some time later the owner objected to some of the work but accepted later rent checks and took no steps to follow up her earlier objections. When the tenant refused to continue paying an improperly calculated utility pass-through, an eviction notice was given one week later for habitual late payment of rent, "bounced" checks, and alteration of the unit. The Hearing Officer found the eviction to be wrongful in that the alleged violations either had not occurred or were not of a material, actionable nature; and that the eviction was being pursued in retaliation for the tenant's exercise of her right to refuse paying an improper increase.

Recommendation: The Hearing Officer and Staff urge the Board to write the owner, cautioning her against pursuing this matter. The Board should retain jurisdiction over the case and take further action if necessary.

2. 919 Treat Ave. [G002-22(E)]

The tenant took up residence in 1977, four years before the current owner's purchase. In January 1986 a defective termination notice was given the tenant, with no just cause or advice clause stated. The owner lives in a two-unit building on the property, and the tenant lives in a rear cottage. No structural connections exist. The owner apparently believed the property was exempt and stated at the hearing that he wished to perform renovations in the cottage. The Hearing Officer explained the problem with the eviction attempt and also voided an over-the-guidelines \$100 rent increase, with instructions for banking.

Recommendation: Staff and Hearing Officer suggest that an educational letter be sent to the owner and that the construction work--including obtaining permits and sending a proper eviction notice--be monitored by the Eviction Unit.

3. 143 San Jose Ave. [G148-23(E), G82-12(P), G40-26(A)]

The case originally came to the Commissioners on appeal from the results of a hearing on an eviction report and tenant's petition. The Commissioners voted to remand the cases, with instructions to try to mediate the matter. At the remand hearing, the owner did not appear. The dispute centered around the proper rent the tenant should pay, which dispute resulted in an eviction notice for insufficient rental payment. Since landlord and tenant had experienced a break in their personal relationship, the owner did not become the tenant's roommate, as planned, and did not take steps that would have made it possible for her to get a replacement roommate. A rent increase was also requested. The Hearing Officer found both the eviction attempt and rent increase to be improper and encouraged the owner to make necessary repairs so that the tenant could get a roommate, and to only charge the amount originally agreed on.

Recommendation: That an educational letter be written the owner, cautioning him against proceeding with the eviction and encouraging the parties to attempt to reach an amicable resolution, as stated by the Hearing Officer.

4. 7321 Geary Blvd. #1 [G140-18(E)]

The Commissioners were given an update on this case, originally evaluated by them on April 22, 1986, at which time the Board wrote a cautionary letter to the owner. The tenants have indicated in the meantime that the owners have taken out a permit for demolition, at the same time that it appears the building is still for sale. The tenants discovered the demolition effort only through information given them by neighbors, whom the City notified; the owners were supposed to inform the tenants of the demolition request but had not done so. Tenants have only 10 days to appeal after such permits are granted. They lose their right to appeal after that date, even if the owner never properly informed them of the procedure.

Recommendation: The Eviction Unit asks that they be allowed to continue to monitor the situation and that the Board write the owner asking for copies of approved demolition permit(s), so that proper notification of appeal time may be given the tenants.

5. 2010 Vallejo #1 [G148-21(E)]

The Commissioners were given a copy of the reply from the landlord's attorney to the Board's request for information no

later than June 6, 1986. Since no serious effort has been made by the owner or his attorney to comply with the Board's request, further action was requested.

Recommendation: To write the owner and his attorney, stating that a written response must be received by a certain date in the near future or the Board will consider further action.

MSC: To accept all recommendations as stated.
(Chinchilla/Alviar: 4-0)

B. EXECUTIVE SESSION

The Commissioners went into Executive Session at 8:55 p.m., pursuant to Government Code 54956.9(a), to discuss possible litigation. They returned on the record at 9:15. It was the consensus of the Board that the Eviction Unit should proceed with investigation of the cases at 3350 Octavia and 2285 Bay.

XI. CALENDAR ITEMS:

June 17, 1986: 2 appeal considerations
Old Business: Rules & Regulations

June 24, 1986: 1 appeal consideration
2 appeal hearings: 565 Geary #304
645 Leavenworth/825 Post

XII. ADJOURNMENT

Vice-president Marshall adjourned the meeting at 9:30 p.m.

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7/86NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

June 17, 1986

State Building, 350 McAllister St. #1158
*****AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 295 Guerrero St. #7 [G41-06(A)]
 - B. 1600 Clement St. #305 [G41-07(A)]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff ..
 - B. Hearings ..
- VIII. Old Business: Rules and Regulations Change
- IX. New Business
- X. Appeal Hearing
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

DOCUMENTS DEPT.**JUN 17 1986****SAN FRANCISCO
PUBLIC LIBRARY**

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 17, 1986 at 5:30 p.m. at the State Building, 350 McAllister St., #1158

I. Call to Order

DOCUMENTS DEPT.

President Payne called the meeting to order at 5:40 p.m. JUN 20 1986

II. Roll Call

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Commissioners Present: Carrico; How; Marshall; Payne.

Commissioners not Present: Alviar; Chinchilla; Jackson;
Waller.

Staff Present: O'Hearn.

Commissioner Chan appeared on the record at 6:03 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 10, 1986, as corrected.
(Marshall/Carrico: 3-0.)

IV. Consideration of Appeals

A. 295 Guerrero St. #7 [G41-06(A)]

The landlord appeals the hearing officer's decision awarding a 5% rent decrease based on the lack of roof repairs to the garage. The landlord purchased the property shortly before the tenant filed the petition. Although he contends on appeal that corrections have been taken care of, he refers to a 10% rent decrease based on lack of hot water. He also complains that the tenant is using the Rent Law for her own benefit.

MSW: To deny this appeal. (Marshall/Carrico.)

A prior decision on remand, issued on April 1, 1986 pursuant to a previous rent decrease petition, awarded a 10% rent decrease based on lack of hot water. [Appeal Nos. G32-30(A) & G36-40(A), Case No. F50-25(P)] Since it appears that the instant appeal refers to the previous case, it was the consensus of the Board to continue its consideration for one week in order to allow staff to contact the landlord for clarification of his appeal.

B. 1600 Clement St. #305 [G41-07(A)]

The tenant appeals the hearing officer's decision denying the landlord the annual rent increase and denying the tenant any additional rent decrease. The tenant contends that the hearing officer erred in interpreting a prior Board decision on a prior petition filed by the tenant. He also complains that he was not able to respond to the landlord's documents submitted after the hearing before the record closed.

A prior Board Decision on Appeal, rendered on December 3, 1985, awarded a 50% rent decrease for an 11-day period based on lack of hot water and heat and a \$10 per month decrease based on inadequate refrigeration or regrigerators. [Appeal No. G34-24(A), Case Nos. G58-4(P), G58-29(P), G58-42(P) & G66-17(P)] One of the tenants additionally received a rent decrease based on roof leaks. The Board specified in its order that tenant Dillon (petitioner in the instant case) was not preclude from raising the roof issue in a subsequent petition.

In the instant petition, filed on October 28, 1985, the tenant included his complaint about the roof leaks in his statement concerning the landlord's failure to repair and maintain. This issue, however, is not addressed in the instant decision.

MSC: To remand the case to the same hearing officer to review the documentary evidence referred to on appeal and to address the issue of roof leaks consistent with the prior order of the Board. (Carrico/ Marshall: 3-0.)

V. Communications

A. The Board received a letter from the landlords of 786 Dolores Street regarding the Board's actions in Case Nos. G002-18(E) and G62-13(P) and Appeal Nos. G38-3(A) and G38-4(A).

B. The Board received a letter from Municipal Court Judge Dorothy von Beroldingen concerning her landlord's proposed rent increases for Fox Plaza Apartments.

C. President Payne approved and signed eviction letters for the following cases:

1946 Baker [G166-06(E)]
7321 Geary Blvd. #1 [G140-18(E)]
919 Treat [G002-22(E)]
143 San Jose [G148-23(E)]

D. Vice-President Marshall received a letter from the landlord of 1565 Jackson St. concerning Case No. G142-23(E) and forwarded it to the Eviction Unit Supervisor.

VI. Director's Report

A. The Deputy Director announced the Mayor's re-appointment of Commissioners Alviar, Chinchilla, Chan and Payne.

B. The Deputy Director informed the Commissioners that the budget analyst for the Board of Supervisors made no recommendation on the Rent Board's proposed budget for fiscal year 1986-87. The Board of Supervisor's Finance Committee also did not dispute the Rent Board's budget at its committee hearing on June 17, 1986.

VII. Old Business

A. Proposed Amendments to the Rules & Regulations

The Board previously held its public hearing on draft rule changes on February 26, 1986. The Commissioners continued their discussion of the remaining proposed amendments.

Section 4.11 Computation of Passthrough of PG&E Costs

MSC: To adopt the May 14, 1986 draft of Section 4.11 which states the language approved by the Board on May 13, 1986. (Carrico/Marshall: 4-0.)

The Board also directed staff to prepare a new calculation form and accompanying instruction sheet.

Section 6.10(a) Operating and Maintenance Increase

The Board discussed the three options in the draft rule changes dated February 6, 1986. Vice-President Marshall noted that option 3 does not address the issue of calculation years, whereas option 2 does. Commissioner Carrico stated that the choice of 12-month periods should be restricted only to prevent skewed results. The Commissioners subsequently agreed on such restriction language to add to option 1 and to delete the word "immediately" before "preceding" in the first paragraph of Section 6.10(a).

MSC: To delete the word "immediately" from the first paragraph of Section 6.10(a), change the word "the" to "a" before referring to a 12-month period and add option 1 with the addition of the following sentence:

Use of a particular calculation period in order to create exaggerated results is disfavored.

(Carrico/Marshall: 4-0.)

Following is the full text of amended Section 6.10(a):

"Except in extraordinary circumstances, the following guidelines shall apply to increases based upon Operating and Maintenance expenses:

(a) A rent increase may be considered justified if it is found that the aggregate cost of operating and maintenance expenses (including but not limited to real estate taxes, water, sewer service charge, janitorial service, refuse removal, elevator service, security system and debt service) has increased over a 12 month period preceding the date of filing the petition (adjustment year), compared to the operating and maintenance expenses incurred in the 12 months prior to the adjustment year (comparison year). Alternatively, the immediately preceding two calendar years may be used. Use of a particular calculation period in order to create exaggerated results is disfavored."

The Commissioners were unable to reach an agreement on the issue of prospective debt service which was included in draft options 2 and 3.

Section 2.13 Board Meetings

The Commissioners believed that they previously approved amendments to this section. Board Minutes of March 11, 1986 (page 6) reflect that the Board approved language to require meeting on the first Tuesday rather than at least one Tuesday of each month as stated in the original draft dated February 10, 1986. The approved language may not have been included in subsequent drafts of proposed rule changes.

MSC: To amend Section 2.13 as written in the Board Minutes of March 11, 1986. (Marshall/Carrico: 4-0.)

B. 1671 Newcomb Ave. [Appeal No. G40-78(A)]

The Board inquired about the status of this case which was scheduled for appeal hearing on May 20, 1986 and continued to May 27, 1986 when the landlord failed to appear. Prior to commencement of the hearing on May 27th, one of the tenants became seriously ill. Therefore, the Board again continued the hearing.

Staff will try to contact the parties and inform the Board of the status at the next Board meeting.

VIII. New Business

Proposed amendments to the Rent Ordinance implementing Government Code Section 7060, *et seq.*, (the Ellis Act or Senate Bill 505) have been approved by the Board of Supervisors and signed by the Mayor. The amendments adding a 13th just cause eviction will be effective July 1, 1986 when state law goes into effect.

The Board requested staff to identify related issues which it may decide by adopting corresponding regulations following a public hearing. Staff will review the proposed amendments and report to the Board at the next meeting.

IX. Calendar Items

June 24, 1986: 2 appeal considerations (1 cont. from this week)
2 appeal hearings: 565 Geary #304
645 Leavenworth/825 Post

July 1, 1986: 4 appeal considerations
1 appeal hearing: 3848 Sacramento Street
(on remand from the Superior Court)

X. Remarks from the Public

Chris Collins spoke to the Board concerning alternative dispute resolution.

XI. ADJOURNMENT

President Payne adjourned the meeting at 7:15 p.m.

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

June 24, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

JUN 20 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 295 Guerrero St. #7 [G41-06(A)]
B. 1325 Hyde St. #5 [G41-08(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

IX. New Business

X. Appeal Hearing

5:45 p.m. 1. 565 Geary St., #304

[G40-93(A)]

6:15 p.m. 2. 645 Leavenworth/825 Post St. [G40-94(A)]

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 24, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Marshall, Payne, Waller.

Commissioners Not Present: Chan, Curran, Jackson.

Staff Present: O'Hearn, Wicks

Commissioner Carrico appeared on the record at 5:55 p.m.
Commissioner How appeared on the record at 6:06 p.m.
Commissioner Payne went off the record at 7:16 p.m.
Commissioner Chinchilla went off the record at 7:36 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 17, 1986, as written. (Alviar/Chinchilla: 4-0)

IV. Consideration of Appeals

A. 295 Guerrero # 7 [G41-06(A)]

The Appellant informed the Board in writing that he wished to withdraw his appeal. Therefore, no Board action was necessary.

B. 1325 Hyde #5 [G41-08(A)]

The landlord appealed Hearing Officer's decision on remand. This decision reaffirmed the previous Hearing Officer's decision, since the landlord agreed that the subject rent increase was unlawful and agreed that no other issues remained outstanding. On appeal the landlord complained of a clerical error which was subsequently corrected.

MSC: To uphold the Hearing Officer's decision as corrected and deny the appeal. (Chinchilla/Alviar: 4-0)

V. Communications

A. A letter of withdrawal of the appeal concerning 295 Guerrero #7 was received by the Board.

- B. A tenant involved with the case at 773 Cole wrote the Commissioners to express her dissatisfaction with the Hearing Officer's decision. Staff will send a response and appeal form.
- C. A letter from Parkmerced Management was sent in response to one from the Board expressing concern about lease renewal procedures.
- D. The Commissioners received a copy of the Clerical Correction of the Hearing Officer's Decision concerning 1325 Hyde #5.
- E. The Deputy Director sent the Board a memo summarizing Rent Ordinance amendments to implement the Ellis Act--to be effective July 1, 1986.
- F. The Deputy Director's memo to Staff and Hearing Officers detailing Rules and Regulations adopted June 17, 1986 was given to the Commissioners.
- G. The Board was asked by the Appellant's legal representative for 349 Oak #1 to allow a further continuance until July 15, 1986, since the parties are still trying to reach a settlement. The continuance was granted.

VI. Director's Report

The Deputy Directory informed the Commissioners that Ms. Alma Parra will be leaving the Rent Board for a job with the District Attorney's Office. The Board made the following motion:

MSC: To adopt a Resolution of Appreciation for the many years of service Ms. Alma Parra has given the Rent Board. (Marshall/Chinchilla: 5-0)

VII. Appeal Hearings

A. 565 Geary Street, #304 [G40-93(A)]
(Considered June 10, 1986)

An appeal hearing was scheduled for 5:45 p.m. and began on the record at 5:50 p.m. Appearing were appellant/landlord Russell B. Flynn, resident manager Pat Evans, property supervisor Monica Jones, and tenant Anna Poulsen.

Background

The landlord had appealed the Hearing Officer's determination on remand, contesting a 2% decrease in service award for reduced

janitorial service. The landlord asserted the belief that there has been no decrease in this service; and that even assuming the service had been reduced, it would not constitute a substantial decrease as required by law.

Hearing Before the Commissioners

The tenant testified that the building had the benefit of a full-time janitorial service until new ownership took over in December 1983. She stated that the resident manager now performs janitorial services on a part-time basis and detailed the following problems since this change: unclean front door and entrance area; unclean elevator walls and floor; dirty lobby walls, floor, and window; unclean laundry room; and area near garbage chute unclean. She further detailed a problem with lack of hot water until the boiler was replaced in February 1986. The tenant could not set a value for her alleged loss of service.

In rebuttal, the landlord and his witnesses testified that this tenant was the only one in the 61 residential and 3 commercial units who had stated a problem. Mr. Evans testified that the areas mentioned by the tenant were cleaned daily or weekly and mopped on a regular basis, as required. The witnesses testified to regular inspection of the premises, and believed the property is kept in better condition than under the previous management. They disclaimed any reduction in service either in their management or as compared to that of the prior owner. The hearing was declared closed at 6:26 p.m.

After considering the testimony and evidence, the Commissioners voted as follows:

MSC: To find that no substantial decrease in services exists. To reverse the Hearing Officer's Decision and rescind the 2% rent reduction. (Chinchilla/Carrico: 5-0)

B. 645 Leavenworth/825 Post [G40-94(A) through G41-03(A)]
(considered June 10, 1986)

A hearing was scheduled for 6:15 p.m. and began on the record at 6:32 p.m. Appearing were appellant/tenants' representative Milo Nadler and landlords' representatives Barbara Herzig, Esq. and Elizabeth Gessell.

Before taking testimony, the Commissioners passed the following motion:

MSC': To excuse Commissioner Carrico from this case. (Chinchilla/Alviar: 5-0)

Background

Nine tenants had appealed the determination of the Hearing Officer, heard on three limited issues: decreases in service for heat, hot water, and incorrect utility pass-through. On remand the Hearing Officer found that the tenants had not carried their burden of proof in the decrease of services matter, in that insufficient and confusing documentation was presented. She was therefore unable to determine the nature and extent of the decreases and which units were involved. The figures submitted by the tenants for utility pass-throughs were accepted as the basis for the calculations. On appeal tenants maintained that the involved rent increases should be ruled null and void since a decrease in the utility pass-through was not correctly calculated or reflected in the increase notices.

Hearing Before the Commissioners:

The tenant testified that the landlord passed on utility increases, but had failed to pass on a decrease, as required by law. The tenants believe the 1984 and 1985 rent increases should be declared null and void, as a result. The landlord's representatives pointed out that two Hearing Officers had rejected the tenants' remedy and felt the 1984 and 1985 increases were valid. They further explained that the utility pass-through was not calculated the year of the decrease because numerous disputes between the landlord and the tenants occurred during that time, and management decided in good faith to try to avoid additional controversy by not issuing an increase. The increases that were noticed were still less than the landlord could have given, even taking into consideration the decrease year. The tenants' representative agreed that a higher increase could have been noticed and also agreed that a dispute over the laundry utility costs had been resolved. The hearing was closed at 6:47 p.m.

After considering the testimony and evidence, the Commissioners issued the following motion:

MSC²: To uphold the Hearing Officer's decision.
(Alviar/How: 4-1: Marshall dissenting)

VIII. Old Business

- A. Staff informed the Commissioners that follow-up on the 1671 Newcomb Avenue appeal hearing, postponed because of illness of one of the parties, indicated that the matter had not been resolved. The hearing will be rescheduled for July 8, 1986.
- B. The Commissioners began discussion of prospective debt service but decided to discontinue debate for one week. The discussion will commence at 5:30 p.m. on July 1, 1986.

IX. New Business

- A. The Deputy Director informed the Commissioners of the need to promulgate implementing regulations for the new 13th just cause reason for eviction, based on Rent Ordinance amendments pursuant to the Ellis Bill. Staff will begin work on possible regulations. Board discussion will resume at the July 1, 1986 meeting.

X. Calendar Items

July 1, 1986

5:30 p.m.: Old Business: Discussion and vote on prospective debt service; Ellis Act regulations
4 appeal considerations

July 8, 1986

4 appeal considerations
2 appeal hearings:
 6:00--1671 Newcomb [G40-78(A)] (contd. from May 27, 1986)
 6:30--3848 Sacramento [F22-9(A) and F22-12(A)] (remanded from the Court) (originally scheduled 7/1/86)

XI. Remarks from the Public

Milo Nadler thanked the Board for its patience.

XII. Adjournment

Vice-President Marshall adjourned the meeting at 7:42 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

July 1, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

I. Call to Order

111 A.A. 1986

II. Roll Call

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III. Old Business

5:30 -- Prospective debt service discussion and vote

IV. Approval of the Minutes

V. Consideration of Appeals

- | | |
|--------------------------|----------------------|
| A. 2821 Pine St., #2 | [G041-08(A)] |
| B. 2, 8, 12, Carl St. | [G041-10(A)] 3 units |
| C. 99 Coleridge St. | [G041-09(A)] |
| D. 355 Columbus Ave., #5 | [G041-11(A)] |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business (continued)

Ellis Bill, legislation

X. New Business

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 1, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Marshall,
Payne

Commissioners not Present: Curran, Jackson, Waller

Staff Present: Hernandez, Wolf

Commissioner Chan and How appeared on the record at 5:38 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of June 24, 1986 with the following correction: Page 4, Hearing Before the Commissioners, line 10 should state that landlords did issue a rent increase, but did not re-calculate or re-notice the PG&E pass-through portion.
(Alviar/Marshall: 5-0).

IV. Old Business

The Board held a public hearing on draft rule changes on February 26, 1986. The Commissioners continued their discussion of remaining proposed amendments, specifically the allowance of prospective debt service. On June 17, 1986, the Board adopted all of proposed Option 1, and the last sentence of proposed Option 2 for Section 6.10(a).

In this discussion, and subsequent vote, the Board members decided to disallow prospective debt service except in extraordinary circumstances. "In all cases" was deleted from Rules and Regulations Section 6.10(a), paragraph 3, line 1.

MSC: Rules and Regulations Section 6.10(a), paragraph 3, line 1, shall now read:
"Operating expense increases shall be based on actual costs incurred by the landlord."
(Marshall/Chinchilla: 3-2; Carrico, Payne dissenting).

Following is the full text of amended Section 6.10(a):

"Except in extraordinary circumstances, the following guidelines shall apply to increases based upon Operating and Maintenance expenses:

(a) A rent increase may be considered justified if it is found that the aggregate cost of operating and maintenance expenses (including but not limited to real estate taxes, water, sewer service charge, janitorial service, refuse removal, elevator service, security system and debt service) has increased over a 12 month period preceding the date of filing the petition (adjustment year), compared to the operating and maintenance expenses incurred in the 12 months prior to the adjustment year (comparison year). Alternatively, the immediately preceding two calendar years may be used. Use of a particular calculation period in order to create exaggerated results is disfavored."

To determine the per unit increase, this cost increase is divided by 12 (months), then divided by the number of units in the building.

Operating expense increases shall be based on actual costs incurred by the landlord. Operating and maintenance expenses should usually be calculated for the calendar years prior to the filing of the petition for arbitration. This general rule, however, may find an exception when calculation by these periods creates an undue hardship on the landlord such as when large amounts of operating and maintenance expenses have been accounted for solely by reference to fiscal years. Care should be taken, however, to determine that use of alternate calculation periods is not merely an attempt to create favorable results.

V. Consideration of Appeals

A. 2821 Pine St. #2 [G041-08(A)]

Tenant petitioned for decreased housing services due to landlord's failure to provide needed repairs to the unit, including a range, refrigerator and rear porch light. Landlord promised to provide the above at the commencement of the tenancy, but had failed to do so. The Hearing Officer denied tenant's petition, as the services had never been provided, but found that landlord's continuing failure to repair could serve as a defense to the annual rent increase. An Unlawful Detainer has been filed due to tenant's withholding of rent.

MSC: To excuse Commissioner Carrico from consideration of this appeal.
(Alviar/Marshall: 5-0).

²
MSC: To accept this appeal for a hearing at the Board level. (Chan/Alviar: 5-0).

B. 2, 8, 12 Carl St. [G41-10(A)]

Landlord petitioned for certification of capital improvement costs, which was granted by the Hearing Officer. The Hearing Officer also corrected tenant's base rents, which included capital improvement

charges from 1982, and ordered refunds of sums overpaid. On appeal, landlord maintains that at the time of the previous passthrough, the Rules and Regulations allowed for capital improvements to become part of base rent.

MSC: To remand this case to the same Hearing Officer to correct the disallowance of capital improvements as part of base rent from landlord's 1982 petition and to check as to whether PG&E had been included in base rent. (Marshall/Chan: 5-0).

C 99 Coleridge St. [G41-9)A]

Tenant petitioned regarding a large rent increase due to landlord's assertion that the building had become owner-occupied exempt, and requested rent reductions for several alleged decreases in service. Landlords and tenant agreed on the date of exemption prior to the hearing, but landlord appeals the award given tenant due to construction of a deck on the east side of the premises and a hole in tenant's ceiling.

MSC: To deny this appeal. (Marshall/Alviar: 4-1; Payne dissenting).

D. 355 Columbus Ave. #5 [G41-11(A)]

Landlord's petition based on increased operating expenses was denied as alleged increased water costs were insufficiently documented and repair cost increases included repairs to a dental office and repainting of vacant units which were relet at higher rents. Additionally, Hearing Officer ordered overpayment of a null and void rent increase. On appeal, landlord maintains that the tenant offered the increase voluntarily, and that new owners should not be held responsible for overpayment.

MSC: To deny this appeal. (Marshall/Chan: 5-0).

VII. Communications

The Board received the following communications:

A. The appeal decision for the case at 580 McAllister Street, which was approved by the Board President with minor changes.

B. A letter from the Eviction Unit Supervisor in response to a landlord's attorney's attempt to evict a tenant under SB 505, the Ellis Bill.

C. A letter from the Deputy Director to Father O'Brien of the Redemptorists regarding the eviction requirements of the Rent Ordinance.

D. An article from the San Francisco Chronicle regarding the Ellis Bill.

VII. Calendar Items

July 8, 1986

4 appeal considerations

Appeal hearing: 6:00 - 1671 Newcomb St. [G40-78(A)]
(continued from May 27, 1986)

July 15, 1986

4 appeal considerations

2 appeal hearings

6:00 - 2821 Pine St. #2 [G0418(A)]

6:30 - 3848 Sacramento St. [F22-9(A), F22-12(A)]

Court remand

VIII. Adjournment

President Payne adjourned the meeting at 7:55 p.m.

7/3/86:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 8, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT

I. Call to Order

JUL 14 1986

President Payne called the meeting to order at 5:39 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Curran; How; Marshall; Payne.

Commissioners not Present: Alviar; Carrico; Chinchilla;

Jackson; Waller.

Staff Present: Hernandez; O'Hearn.

Commissioner Chan appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of July 1, 1986 with the corrections noted below: (How/Marshall: 5-0).

(1) For Regulation 6.10(a) at page 2, the first sentence of paragraph 3 should be at the end of paragraph 1 and the remainder of paragraph 3 should be deleted such that the full text of amended Section 6.10(a) reads:

"Except in extraordinary circumstances, the following guidelines shall apply to increases based upon Operating and Maintenance expenses:

(a) A rent increase may be considered justified if it is found that the aggregate cost of operating and maintenance expenses (including but not limited to real estate taxes, water, sewer service charge, janitorial service, refuse removal, elevator service, security system and debt service) has increased over a 12 month period preceding the date of filing the petition (adjustment year), compared to the operating and maintenance expenses incurred in the 12 months prior to the adjustment year (comparison year). Alternatively, the immediately preceding two calendar years may be used. Use of a particular calculation period in order to create exaggerated results is disfavored. Operating expense increases shall be based on actual costs incurred by the landlord. To determine the per unit increase, this cost increase is divided by 12 (months), then divided by the number of units in the building."

(2) for the motion on Agenda item V.B. (2, 8, 12 Carl Street), the MSC at the top of page 3 should be corrected to read:

"To remand this case to the same Hearing Officer to verify the law in effect at the time of the 1982 petition, correcting, if necessary, the disallowance of capital improvement increases as part of the base rent and to check as to whether PG&E had been included in base rent. (Marshall/Chan: 5-0.)

(How/Marshall: 5-0.)

IV. Consideration of Appeals

A. 920 Van Ness Ave. #501 [Appeal No. G41-09(R)]

One tenant appeals the hearing officer's decision granting the landlord's capital improvement increase petition. He claims that the interest was improperly calculated and that the landlord should be ordered to reimburse PG&E passthrough overcharges rather than requiring him to file a petition.

MSC: To deny this appeal. (Marshall/Curran: 5-0.)

B. 1836 McAllister St. #6 [Appeal No. G41-10(R)]

The tenant appeals the hearing officer's decision denying his petition for a rent decrease based on lack of heat. He disputes the hearing officer's determination that he had not proven that he gave the landlord prior notice of the heat problem. He claims adequate notice was given by a PG&E hazard warning in 1983 and a letter to the landlord from the tenant in December 1985.

MSC: To deny this appeal. (How/Payne: 5-0.)

C. 1039 Palou St. [Appeal No. G41-12(A)]

The landlord appeals the hearing officer's decision granting the tenant's rent decrease petition. Neither the owner, nor a property management representative appeared at the hearing. The hearing officer permitted a rent reduction based on a collapsed fence, basement sewage, broken windowpane, roof, ceiling and basement leaks. On appeal the landlord claims lack of notice of the hearing even though the appeal form provides the same address for the landlord as the notice of hearing. Further, in conjunction with the Hearing Officer's written response to the appeal, the Executive Director informed the Board of the landlord's telephone call to the Board office requesting a postponement on the morning before the hearing.

MSC: To deny this appeal. (Marshall/Chan: 5-0.)

D. 1843 Scott St. #3 [Appeal No. G41-13(A)]

The hearing officer granted the tenant's rent decrease petition and awarded a 25% rent reduction for a 3 and one-quarter month based on his lack of hot water for that period. The landlord appeals alleging various factual errors or inconsistencies in the decision.

MSC: To deny this appeal. (Curran/How: 5-0.)

V. Appeal Hearing

1671 Newcomb Ave. [Appeal No. G40-78(A)]

The appeal hearing was previously scheduled on May 20, 1986, but was continued to this date due to illness of one of the parties immediately before the previous hearing. The hearing commenced at 6:20 p.m. with the landlord and the tenants' attorney appearing.

The case concerns a tenant petition contesting illegal rent increases. The Board had accepted the landlord's appeal in this case on May 6, 1986. The landlord failed to appear at the hearing before the hearing officer because she thought the property had been sold. She also claimed that the repayment of past illegal rent increases would cause her financial hardship.

The hearing terminated at 6:50 p.m. The Board left the record open until July 11, 1986 in order for the parties to submit verification of rent payments. Following the hearing, the Commissioners began their discussion of the case and agreed that the petitioner's co-tenant is a tenant for purposes of the Rent Ordinance.

While noting the equities and hardships on both sides, the Commissioners encouraged a settlement agreement between the parties. The Board requested staff to calculate banked increases and check various overcharge amounts. Consideration of the case will resume at the next Board meeting.

VI. Communications

A. The Commissioners received the hearing officer's response to Appeal No. G41-12(A) concerning 1039 Palou Street.

B. The Commissioners approved and the President signed the Decision on Appeal Nos. G40-94(A) through G41-03(A) regarding 825 Post/625 Leavenworth.

C. The Commissioners approved and the President and Vice-President signed a written resolution in appreciation of the services of Alma Parra, who resigned her staff position with the Board.

VII. Director's Report

The Executive Director informed the Board that the agency is losing its accountant services previously provided by the Mayor's Office. The Director will request supplemental appropriations from the Board of Supervisors in order to fund such a position with the agency.

The Director also reported that an additional staff member is now assigned full time to the Eviction Unit.

VIII. Old Business

President Payne asked about the status of Board suggestions in its two-year plan submitted to the Mayor.

IX. Calendar Items

July 15, 1986: 4 appeal considerations
 2 appeal hearings
 6:00 - 2821 Pine St. #2 [G0418(A)]
 6:30 - 3848 Sacramento St. #3 [F22-9(A), F22-12(A)]
 Court ordered remand
 Old Business- 1671 Newcomb

X. Adjournment

President Payne adjourned the meeting at 7:25 p.m.

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R52
#1
7/15/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

July 15, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II Roll Call

JUL 14 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 1320 Lombard St. [G41-14(A)]
- B. 3230 - 16th St. [G41-15(A)]
- C. 3456 A 17th St. [G41-16(A)]
- D. 141 Blake St. Apt. A [G41-11(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

- A. 289 San Jose Ave. #1 [G166-26(E)]
- B. 1700 Waller #3 [G166-74(E)]
- C. 2278- 15th St. #4 [G166-3(E)]
- D. 1401 Ocean Ave. #1, 3, 4 [G166-90(E), G166-91(E), G167-29(E)]
- E. 1090 Hampshire #2 [G101-38(T)]

VIII. Old Business

- A. 1671 Newcomb Ave. [G40-78(A)]

IX. New Business

X. Appeal Hearings

- 6:00 p.m. 1. 2821 Pine St. #2 [G41-8(A)]
 6:30 p.m. 2. 3848 Sacramento ST. #3 F22-9(A) and F22-12(A)
 (court remand)

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

7/9/86:ap
0856A

#2
7/15/86

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 15, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice-President Marshall called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: Curran; How; Marshall.
Commissioners not Present: Alviar; Chinchilla; Jackson;
Payne; Waller.
Staff Present: Hernandez; Wicks.

Commissioner Carrico appeared on the record at 5:50 p.m. and went off the record at 7:52 p.m. Commissioner Chan appeared on the record at 6:17 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 8, 1986 with the following correction:
Page 3, paragraph 4, line 1: "hardship".
(Curran/How: 3-0)

IV. Consideration of Appeals

A. 1320, 1340, 1360 Lombard St. [G41-14(A)]

The Landlord appealed a technical correction to the Hearing Officer's decision, granting a decrease in services and failure to maintain award to numerous tenants in this three building complex. The Hearing Officer had stayed the 4% annual increase until certain repairs were made. By technical correction, the staff further stayed the 7% operating and maintenance increase granted in the earlier January 27, 1986 decision, thereby delaying imposition of the entire 11% increase until correction of the demonstrated health and safety code violations. On appeal the landlord argued that the staying of a previously-granted increase could not be made through a technical correction since it was a substantive change. Rent Board office practice in such situations has been to disallow the increase in its entirety.

MSF: To uphold the Hearing Officer and deny the appeal.
(Curran/Marshall: 2-1; Commissioner Carrico dissenting)

It was the consensus of the Commissioners to delay the vote on this matter to July 22, 1986.

B. 3230 - 16th Street [G41-15(A)]

The landlord appealed Hearing Officer's decision concerning a landlord's petition for capital improvements and operating and maintenance expenses. The property consists of six residential and two commercial units. Improvements were performed to abate numerous code violations arising under previous ownership. The Hearing Officer disallowed certain costs on the recommendation of the estimator, and some charges were reapportioned to include assessment to the commercial units. The landlord objected to the capital improvement revisions.

MSC: To remand the case for further consideration of two issues: (a) to determine what percentage, if any, of the improvements to the residential common areas actually benefited the commercial units; and (b) to review whether the costs of improvements to the back stairs should be allowed. Also, if the landlord files a further petition on the remaining units in this building, that matter shall be consolidated with the remand case. (Carrico/Curran: 3-0)

C. 3456-A 17th Street [G41-16(A)]

The Hearing Officer's ruling on remand--concerning a landlord's petition for capital improvements, operating and maintenance, and comparables--was appealed by the landlord. He objected to the disallowance of an operating and maintenance increase, stating that he had submitted documentation of all costs incurred by both him and the previous owner.

MSC: To accept the appeal and remand the case to a new Hearing Officer. (Curran/Carrico: 3-0)

D. 141 Blake Street, Apt. A [G41-11(A)]

The tenant appealed the ruling of Hearing Officer which dealt with decreases in housing service and failure to repair and maintain. The original hearing was continued to May 2, 1986, upon agreement among the parties. The tenant did not appear at that hearing but did appear on May 12, 1986; no hearing for the latter date appeared on the Rent Board docket. The tenant had filed petitions at two different times, which petitions were consolidated. One case file indicates that notice was sent for May 2, 1986; the other case file of the consolidated cases indicates that a notice was sent for May 12, 1986. The proof of service on both notices includes the tenant's name.

MSC: To remand the case for another hearing.
(Curran/Marshall: 4-0)

V. Communications

A. Numerous tenants from the case at 1320, 1340, 1360 Lombard wrote the Commissioners concerning the appeal at that address.

B. The Rent Board statistics for June 1986 were distributed and explained.

C. The appeal decision for 565 Geary Blvd. was reviewed and approved.

D. The landlord's representative for the matter at 2821 Pine Street, #2, wrote to request a continuance of the appeal hearing on July 15, 1986, declaring that his client had not received notice and was not in the area. In negotiations facilitated by the Rent Board staff earlier, both sides agreed to waive time and hold the hearing on July 22, 1986. Included was a stipulation that the landlord would not go forward with the scheduled Unlawful Detainer hearing before July 30, 1986. The Commissioners agreed that if they reach a decision on the case on July 22, 1986, they will attempt to approve a written decision at the July 29, 1986 meeting and have the decision available for distribution on July 30, 1986.

VI. Director's Report

A. Executive Director Ricardo Hernandez reported that the Rent Board items scheduled for PH&D consideration July 15, 1986, had been put over to a later date.

B. Mr. Hernandez informed the Board that Supervisor Molinari's proposed amendments to the Ordinance are being held for an unspecified period of time.

VII. Appeal Hearing

3848 Sacramento #3 [F22-9(A) and F22-12(A)]

The hearing was scheduled for 6:30 p.m. and began on the record at 6:44 p.m. Appearing were tenant Robert Menist, landlord Jack Klein, and landlord's representative Joan Mann Thomas. The hearing was closed at 7:58 p.m.

This appeal was accepted for a hearing pursuant to a remand from the Superior Court, in Case No. 849-586. These cases concern a landlord's appeal [F22-9(A)] from a Hearing Officer's decision granting the tenant decrease in service awards for continuing leakage and resulting water damage. The tenant also appealed [F22-12(A)]; he questioned the Hearing Officer's refusal to rule--for lack of jurisdiction--on the issue of whether a rent increase issued during a two-year moratorium period was improper under provisions of the Subdivision Code.

The tenant testified to a long-standing problem of serious leaks in his unit. He maintained that the leaks resulted in inconvenience, loss of use of part of the unit, structural damage to the property, and damage to personal possessions. Copies of reports from Building Inspectors were submitted into the record. He stated that the owner made only cosmetic repairs for some time. He agreed that the leaks were repaired in late March 1986, the success of such repairs to be determined with the next rains. The tenant further testified to his belief that the owner had improperly raised the rent during the period of moratorium provided for in the Subdivision Code. The tenant has been paying a rent of \$857.37 currently.

The landlord testified to his continuing attempts to try to repair the leaks, stating that he inspected the premises whenever the tenant notified him of a problem. He believed that the extent of the problem was not so great as suggested by the tenant and submitted copies of Building Inspector reports to substantiate his position. The owner believed that if any award were in order, it would be for failure to maintain and repair, not decrease in service. He further argued that the Rent Board had no jurisdiction to rule on the rent increase issue because this matter had been stayed on appeal to the Superior Court.

After reviewing the documentation and considering the testimony, the Commissioners voted as follows:

- MSC1: To uphold their appeal decision of July 16, 1985, with the following amendment: To revise to 35% the previously-granted 50% reduction in base rent, effective October 1, 1984.
- MSC2: To allow the tenant to pay back the resulting 15% underpayment over an 18 month period, to correspond to the length of time the decrease existed.
- MSC3: To revise the following language in the July 16, 1985 decision:
page 6, line 6--strike "Landlord must provide tenant with a leak free dwelling."
page 6, lines 6, 7--revised to "When leaks are not remedied within a reasonable time, a decrease in services occurs."
page 6, lines 10 through 12--revised to "Because leaks have become increasingly worse, tenant is granted a 35% reduction in rent commencing October 1, 1984, until April 1, 1986, when it was stipulated that repairs were made."
- (Chan/Curran: 4-0)

VIII. Consideration of Allegations of Wrongful Eviction

The Eviction Unit Supervisor reported on the following cases:

A. 289 San Jose Ave. #1 [G166-26(E)]

Before the tenant took up residence in March 1983, he informed one of the owners that his wife would be joining him as soon as her immigration papers had been processed from Central America. Four months later the wife joined her husband and began residing in the unit. In September 1984 a child was born to the couple. The tenant first met the other owner when he complained of habitability problems on January 11, 1986. The tenant received a defective eviction notice February 12, 1986, citing violation of the rental agreement by having more than the one tenant stated on the agreement. The Hearing Officer found the eviction to be wrongful on several counts.

Recommendation: To send the owners a cautionary letter and continue to monitor the case.

B. 2278-15th Street #4 [G166-03(E)]

The tenancy began in mid-January 1986. The tenants received oral permission to have their cat in the unit. When relations deteriorated, the owner sent a defective eviction notice based on the cat's presence. The owner--who lives several doors down from the tenants--sent numerous semi-coherent letters to the tenants and the Rent Board, made allegations that appeared to be contrary to fact, and behaved in a manner the Hearing Officer found to constitute harassment. The Hearing Officer found the eviction to be clearly wrongful, as no just cause exists, and ruled that the way the matter has been pursued is contrary to the law.

Recommendation: To send a stern, cautionary letter to the owner, recommending she not pursue the eviction and handle any difficulties with these tenants through an attorney.

C. 1090 Hampshire #2 [G101-38(T)]

This property was the subject of a prior referral to the Commissioners in eviction matter G138-35(E), concerning another tenant in the building. [See the Minutes of April 22, 1986.] In the instant case, the tenant had received a rent increase from \$300 to \$550--which she paid under threat of eviction--when the current landlords took ownership. The owners did not appear at the hearing on this increase, but their legal representative argued that the property is now exempt from the Ordinance, subject to owner-occupancy. The tenant proved that a fifth unit in a converted garage is occupied by a son of one of the owners, and that the unit was also occupied when the increase went into effect. The Hearing Officer found the increase null and void and the property subject to the jurisdiction of the Ordinance.

Recommendation: Because several tenants have petitioned the Board, it is requested that the monitoring of the property, begun pursuant to the eviction matter, be continued. The Eviction Unit will contact the tenants to see if the owner's improper behavior is continuing and report to the Board if it is.

D. 519 Green St. [G167-68(E) through G167-72(E)]

All six tenants in the building filed reports of wrongful eviction. This was the third attempt in three years to vacate the building for the owner's use "as her residence." In previous attempts the tenants had not moved and the evictions were not pursued. The tenants in this building and a companion building next door earlier had filed petitions with the Rent Board against the owner for wrongful eviction, decrease in services, and unlawful 30-50% rent increases. One year after the owner had attended a Rent Board hearing on one of her buildings, she professed no awareness of the existence of the Ordinance when she appeared to defend a second tenant petition. The building has numerous health and safety violations cited by BBI. The Hearing Officer found the evictions unlawful because of the unlikelihood that the owner, who lived in a multi-story residence, would move herself and, presumably, her relatives into six small units with habitability problems. After the Hearing Officer's recommendation was rendered, the Rent Board received information that the owner was again accepting rent.

Recommendation: The Eviction Unit requests permission to ascertain if the tenants are pursuing a private suit for wrongful eviction. If not, the Commissioners may hold a hearing with a possibility of further action.

E. 1700 Waller St. #3 [G166-74(E)]

This case concerned an owner's refusal to live in a comparable vacant unit, which became available during the notice period. She believed that since she did not have direct evidence that the unit was vacant because of the death of the tenant, she did not feel required to investigate and take that unit. She further stated that the apartment of the subject tenant is cosmetically more attractive. Although the Hearing Officer found the eviction to be wrongful, no further action will be taken because the matter is in Court.

F. 1410 Ocean Ave., #1, 3, 4 [G166-90(E) & 91(E), G167-29(E)]

Three petitioning tenants of long standing were served eviction notices for owner and relative occupancy. The tenants believed the owner would not move into the building since he owned a large house. In rebuttal the owner stated that his extended family lived with him in the house, and they all planned to 0139C

relocate into their family components in the subject building. The Hearing Officer found only one eviction potentially wrongful; the owner planned to use one unit as his private sleeping quarters since he works nights and finds sleeping during the day difficult if his children are in the unit with him. No action will be taken on this matter since the questionable eviction is the subject of a Court action.

It was the consensus of the Board to accept all Staff Recommendations.

IX. Old Business

A. Staff reported that the parties for 1671 Newcomb Ave. [G40-78(A)] reached a tentative settlement. If they are unable to finalize the matter, the Commissioners will decide the case next week.

X. Calendar Items

July 22, 1986

9 appeal considerations, including four consolidated for 1 address and including one (1320, 1340, 1360 Lombard) continued from 7/15/86.

1 appeal hearing: 2821 Pine #2, continued from 7/15/86.

Old Business: 1671 Newcomb

XI. Adjournment

Vice-president Marshall adjourned the meeting at 8:55 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

July 22, 1986

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

|||| 7/7/86

SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1320, 1340 & 1360 Lombard St. [G41-14(A)]
(Continued from 7/15/86)
 - B. 349 Oak Street [G40-86(A)]
(Continued from 5/20/86)
 - C. 1413 15th Street [G40-85(A)]
 - D. 1290 20th Ave. #101 [G41-12(R)]
 - E. 1690 Beach St. #203 [G41-13(R)]
 - F. 1119 Webster St. #2 [G41-14(R)]
 - G. 174 Castro St. #A [G41-15(R)]
 - H. 3350 & 3360 Octavia St. [G41-17(A)]
 - I. 1457 Jones St. [G41-17(R), G41-16(R),
units 1, 2, 4 & 7 H01-1(A) & H01-1(R)]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business
 - 1671 Newcomb Ave. [G40-78(A)]
(Appeal hearing 7/8/86)
- IX. New Business
- X. Appeal Hearing
 - 6:15 p.m. 2821 Pine St. #2 [G41-8(A)]
(Postponed from 7/15/86; appeal accepted 7/1/86.)
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment



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7/22/86

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 22, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

JULY 22 1986

Vice-President Marshall called the meeting to ~~order~~ at 5:45 p.m.
~~PUBLIC LIBRARY~~

II. Roll Call

Commissioners Present: Alviar, Chan, Marshall
Commissioners not Present: Chinchilla, Curran, Payne, Waller
Staff Present: Hernandez, Wolf

Commissioner Carrico appeared on the record at 5:55 p.m.
Commissioner How appeared on the record at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of July 15, 1986 as written. (Alviar/Chan: 3-0)

IV. Consideration of Appeals

A. 1320, 1340, 1360 Lombard St. [G41-14(A)] (Continued from July 15, 1986)

The landlord appealed a technical correction to the Hearing Officer's decision, granting a decrease in services and failure to maintain award to numerous tenants in this three-building complex. The Hearing Officer had stayed the 4% annual increase until certain repairs were made. By technical correction, the staff further stayed the 7% operating and maintenance increase granted in the earlier January 27, 1986 decision, thereby delaying imposition of the entire 11% increase until correction of the demonstrated health and safety code violations. On appeal, the landlord argued that the staying of a previously-granted increase could not be made through a technical correction since it was a substantive change. Rent Board office practice in such situations has been to disallow the increase in its entirety.

MSC: To deny this appeal. (Marshall/Alviar: 3-0)

B. 349 Oak Street [G40-86(A)]

Tenant petitioned regarding an increase in excess of the guidelines, imposed by the landlord due to their contention that the property was owner-occupied exempt. The issue in this case is whether the subject unit is in one eight-unit

building or one of two four-unit buildings. The Hearing Officer found that the property was not exempt from the provisions of the Rent Ordinance because although there is approximately one inch of space between the two halves of the structure, there is a common roof, foundation, entrance, lightwell, courtyard, stairway, and outside molding. On appeal, landlord asserts that the decision has no factual support; that the determination exceeds the Hearing Officer's authority; and that the Hearing Officer improperly excluded evidence submitted after the hearing. Landlord maintains that the buildings are free-standing and independent of one another.

MSC: To deny this appeal. (Chan/Alviar: 3-0)

C. 1413 - 15th Street [G40-85(A)]

Tenant protested a rent increase in excess of the guidelines, asserting that the building contains five residential units and is therefore not owner-occupied exempt. Tenant maintains that the basement has previously been used as a rental unit, and is currently occupied by landlord's son. On appeal, landlord maintains that the Hearing Officer mischaracterized the basement unit, which is in actuality a downstairs recreation room.

MSW: To deny this appeal. (Alviar/Marshall)

MSC: To accept this case for a hearing at the Board level. (Alviar/Chan: 4-0)

D. 1290 - 20th Avenue #101 [G41-12(R)]

Tenant petitioned on the basis of decreased housing services and failure to perform requested repairs as the result of a fire in the building and landlord's not responding speedily to resulting habitability problems. The Hearing Officer awarded tenant a one-time rent reduction for lack of a refrigerator for three weeks. In her appeal, tenant requests the correction of the misspelling of her name in the decision, and clarification of several other items.

MSC: To deny this appeal but remand this case to staff for a technical correction regarding the misspelling of the tenant's name. (Carrico/Alviar: 4-0)

E. 1690 Beach Street #203 [G41-13(R)]

Landlord petitioned for certification of capital improvements, which was granted by the Hearing Officer. The subject tenant did not appear at the hearing, but sent a written statement outlining her objections, which she raised again upon appeal. These are that the pass-through conflicts

with the provisions of her lease and that she paid for the costs of kitchen remodeling which was not certified, in 1985.

MSC: To remand this case to the same Hearing Officer to: see if a technical correction is necessary on the issue of replacement appliances; make a finding as to whether the lease limits the right of the landlord to pass on capital improvement costs; examine the intent of the parties at the time of entering into the agreement; and, hold another hearing if necessary.
(Chan/Marshall: 4-0)

F. 1119 Webster Street #2 [G41-14(R)]

Landlord petitioned for certification of certain capital improvements, which was granted by the Hearing Officer. On appeal, tenants maintain that the work constituted necessary repairs, as opposed to capital improvements, and that some of the work was unnecessary.

MSC: To deny this appeal. (Carrico/Alviar: 4-0)

G. 174 Castro Street #A [G41-15(R)]

Tenant petitioned for a rent reduction, claiming that his housing services were decreased. Tenant maintained that the landlord was attempting to impose the same rent for two rooms and a bathroom as he had paid for three and one-half rooms. Landlord's assertion was that tenant had rented an extra room from another tenant in the building, and that the agreement was between the two tenants. Tenant appeals that finding.

It was the consensus of the Board to defer consideration of this appeal for two weeks.

H. 3350 and 3360 Octavia Street [G41-17(A)]

Landlord petitioned for certification of capital improvements and an increase based on operating expenses. The capital improvements were approved with some modifications. The Hearing Officer disallowed the operating expense increase, as landlord's petition was disorganized and missing necessary documentation. Tenants petitioned for decreased housing services, which Hearing Officer found to be of insufficient severity to warrant an award. The attempted eviction of one tenant was found to be clearly wrongful. On appeal, landlord maintains that the necessary documentation was provided for one of the buildings, and asserts that any insufficiencies were the result of confusion stemming from consolidating the two cases.

- MSC¹: To deny this appeal. (Carrico/Alviar: 4-0)
- MSC²: To reconsider this appeal. (Chan/Alviar: 4-0)
- MSC³: To remand this case to the same Hearing Officer for reconsideration of the operating and maintenance expense increase. (Chan/Alviar: 3-1; Marshall dissenting.)

I. 1457 Jones Street #1, 2, 4, and 7 [G41-17(R), G41-16(R), H01-6(A), and H01-1(R)]

Tenants petitioned regarding past rent increases which included uncertified capital improvements; Hearing Officer refunded sums overpaid and re-adjusted the base rents. Tenants also received an award for loss of a sun deck in 1983. Both sides appeal the decision of the Hearing Officer. The landlord's appeal is based on the fact that the decrease took place more than 12 months prior to filing of the petition, his assertion that he was unaware of the necessity of having capital improvements certified, and the fact that the sun roof was removed for safety reasons. The tenants feel that the award should be retroactive to the date they lost the service. One tenant changed units after the removal of the deck and did not receive an award, as the Hearing Officer found that the move established a new date for inception of the tenancy. The tenant maintains that, as his rent remained the same, no new tenancy was established.

- MSC¹: To accept the tenants' appeals and remand this case for a hearing on the issues raised and for findings regarding the Board's policy Directive on decrease in services awards. (Carrico/Alviar: 4-0)
- MSC²: To deny landlord's appeal. (Alviar/Marshall: 4-0)

V. Communications

The Board received the following communications:

- A. Letters from the parties regarding the appeals at 1320-60 Lombard, 1119 Webster, and 174 Castro Streets.
- B. Memoranda from the Deputy Director and the Hearing Officer regarding the appeal at 1320-60 Lombard Street.
- C. Calculations from staff regarding the appeal hearing at 1671 Newcomb Avenue.
- D. An article from the San Francisco Chronicle regarding relocation payments, passed by the Berkeley City Council in response to the Ellis Bill.

VI. Director's Report

Executive Director Hernandez reported that the Rent Board items scheduled for PH&D consideration had, once again, been put over to a later date.

VII. Appeal Hearing

Mr. Hernandez informed the Board that the case at 2821 Pine Street #2, scheduled to be heard at tonight's meeting, had been settled.

VIII. Old Business

The tenant's attorney in the case at 1671 Newcomb Avenue delivered to the Board the Memorandum of Agreement, Settlement and Release of all claims in this case.

MSC: To accept the settlement of the parties as the Board's decision in this case.
(Alviar/Chan: 4-0)

IX. Calendar Items

July 29, 1986

4 Appeal Considerations

August 5, 1986

5 Appeal Considerations

1 Appeal Hearing: 1413 - 15th Street [G40-85(A)]
(Originally considered July 22)

X. Remarks from the Public

Michael Harney requested that the Board members speak into the microphones.

XI. Adjournment

Vice-President Marshall adjourned the meeting at 7:05 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 29, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present:

Alviar; Carrico; Chan; Payne;
Waller.

Commissioners not Present:

Staff Present: Chinchilla; Curran; Marshall.
Hernandez; O'Hearn

Commissioner How appeared on the record at 5:37 p.m.

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III. Approval of the Minutes

MSC: To approve the minutes of July 22, 1986 as written.
(Alviar/Carrico: 5-0.)

IV. Consideration of Appeals

A. 465 Burnett Street #12 [Appeal No. G41-18(A)]

The landlord appeals the hearing officer's decision on the tenant's petition concerning an improper rent increase for unit #12. Because the tenant occupies three units at the property, the landlord claims that only one of the tenant's units should be covered by the ordinance.

MSC: To accept the appeal and schedule a hearing before the Board on the legal arguments. (Carrico/Alviar: 5-0.)

B. 1329 Sacramento Street #3 [Appeal No. H1-2(R)]

One of the tenants appeals the hearing officer's decision on her landlord's capital improvement increase petition. She contends that tenants do not benefit from many of the improvements, most of which were the result of the landlord's failure to maintain the property.

MSC: To accept the appeal and remand the case to the hearing officer to review whether the garage improvements benefit the tenants. (Carrico/Alviar: 5-0.)

C. 746 So. Van Ness Avenue #1 [Appeal No. H1-2(A)]

The landlord appeals the rent decrease awarded for decreased housing services based on problems with the sink, roof, bathroom and hot water heater. He claims factual errors concerning the decreased services, the rent and the number of occupants.

MSC: To accept the appeal and schedule a Board hearing.
(Carrico/Alviar: 4-1, Chan dissenting.)

D. 1765 McAllister Street #B [Appeal No. H1-3(A)]

The landlord appeals the hearing officer's award of a \$50.00 per month rent decrease based on the loss of a washer/dryer hook-up and utilities, as well as storage space, and a one-time reduction of \$55.00 for the removal of the washer and dryer. On appeal the landlord argues that the award is excessive and that the decision is both outside the Board's jurisdiction and lacking sufficient evidence.

Commissioner Carrico questioned the reasonableness of the award.

MSC: To deny this appeal. (Chan/Alviar: 4-1, Carrico dissenting.)

V. Communications

- A. Board Decision on Appeal No. G40-78(A) for 1671 Newcomb Avenue was approved by the Commissioners and signed by President Payne.
- B. The request from the tenant's attorney to postpone the Board hearing scheduled on August 5, 1986 on Appeal No. G40-85(A) for 1413 15th Street was granted by the Commissioners.

VI. Director's Report

- A. The Executive Director reported that the Rent Board budget for the current fiscal year has been approved by the Board of Supervisors at its second reading on July 28, 1986.
- B. The Director also reported that he has informed the Mayor of estimated costs of implementing the Commercial Rent Arbitration Initiative. He informed the Commissioners that they would not be involved in any determinations under the Initiative because it provides for arbitrators to decide cases both initially and on appeal. Commissioners Chan and Carrico requested a copy of the initiative.
- C. The Director participated in a call-in show on KGO Radio on July 29, 1986 answering various landlord-tenant questions.

VII. Calendar Items

August 5, 1986

5 appeal considerations

August 12, 1986

4 appeal considerations

2 appeal hearings (on cases accepted July 29, 1986)

VIII. Adjournment

President Payne adjourned the meeting at 6:15 p.m.



SF
R52
#1
8/5/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

August 5, 1986 at 5:30

State Building, 350 McAllister St. #1158

AGENDA

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AUG 5 1986

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 174 Castro St. #A [G41-15R] (cont. from 7/22/86)
 - B. 1815 Broadway St. #8 & #10 [H01-3(R) & H01-4(R)]
 - C. 525 Grandview Ave. #4 [H01-5(R)]
 - D. 1700 Waller St. #3 [H01-5(A)]
 - E. 516 Huron Ave. [H01-6(R)]
(eviction reconsideration request)
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business
- IX. New Business
- X. Calendar Items
- XI. Remarks from the Public
- XII. Adjournment

AUG 8 1986

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 5, 1986, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar, Carrico, Curran, Payne
Commissioners not Present: Chan, Chinchilla, Waller
Staff Present: Hernandez, Wolf

Commissioner How appeared on the record at 5:39 p.m.
Commissioner Marshall appeared at 5:44 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of July 29, 1986 as written. (Alviar/Carrico: 3-0)

IV. Consideration of Appeals

A. 174 Castro Street #A [G41-15(R)] (Continued from July 22, 1986)

Tenant petitioned for a rent reduction, claiming that his housing services were decreased. Tenant maintained that the landlord was attempting to impose the same rent for two rooms and a bathroom as he had paid for three and one-half rooms. Landlord's assertion was that tenant had rented an extra room from another tenant in the building, and that the agreement was between the two tenants. Tenant appeals that finding, and alleges hardship.

MSC: To accept this appeal for a hearing at the Board level. (Alviar/Carrico: 3-0)

B. 1815 Broadway Street #8 & #10 [H101-3(R) & H101-4(R)]

Landlord petitioned for and was granted certification of certain capital improvements. Tenants appeal this decision on the grounds that: the costs of the work were not passed

through to all units in the building; only those units under the portion of the roof that was replaced should be assessed the cost; and the increase allowed would present a hardship.

MSC: To deny this appeal. (Carrico/Alviar: 3-0)

C. 525 Grandview Avenue #4 [H101-5(R)]

Tenant filed a Report of Alleged Wrongful Eviction and petitioned regarding decreased services and landlord's failure to repair. The Hearing Officer found no bad faith on the part of the landlord, as other tenants in the building were complaining regarding petitioner's making noise. Hearing Officer disallowed any rent increase until certain repairs are made and ordered a rent reduction for decreased storage space. Tenant appeals Hearing Officer's recommendation of no action on the alleged wrongful eviction, as he feels that the landlord and other tenants in the building are harassing him into moving out.

MSC: To deny this appeal. (Alviar/Carrico: 3-0)

D. 1700 Waller Street #3 [H101-5(A)]

Tenant filed a Report of Alleged Wrongful Eviction and petitioned regarding decreased housing services. The Hearing Officer found the eviction to be wrongful, as a tenant in a comparable unit died prior to the expiration of the notice period, and awarded a rent reduction due to loss of storage space. On appeal, the landlord maintains that the storage space was not part of the original rental agreement and asserts that the Hearing Officer materially mis-states the facts with respect to the eviction.

MSC: To accept this appeal and schedule a hearing before the Board. (Alviar/Carrico: 4-0)

E. 516 Huron Avenue [H101-6(R)]

Tenant filed a Report of Alleged Wrongful Eviction and asks for a reconsideration of Hearing Officer's recommendation that no action be taken on this case. The Hearing Officer found that there was no tenancy established as per the definition contained in the Rent Ordinance, as tenant paid rent to another tenant in the unit. All of the tenants had vacated the unit by the time of the hearing. On appeal, tenant asserts that he had established tenancy, and that he was forced to vacate on oral notice under threat of having his possessions removed.

MSC: To deny this appeal. (Carrico/Payne: 3-1;
Marshall dissenting)

V. Communications

The Board received the following communications:

- A. A letter from the landlord regarding the case at 1815 Broadway Street.
- B. A memorandum from the Mayor's Office regarding the Swearing-In Ceremony scheduled for August 7, 1986, which has been cancelled.
- C. A request for postponement for the case at 746 South Van Ness Avenue, scheduled for a Board hearing on August 12, 1986. The Board granted the parties' request that the hearing be rescheduled for August 26, 1986.
- D. The appeal decision for the case at 906 Union Street [G40-82(A)], which was approved by the Commissioners and signed by the Board President.

VI. Director's Report

- A. Executive Director Hernandez discussed the MBO report from the last fiscal year.
- B. The Director reported that eight new Hearing Officers have been hired, and a training session was conducted by staff last Friday.

VII. Calendar Items

August 12, 1986

4 Appeal Considerations
1 Appeal Hearing: 465 Burnett Street #12 [G41-18(A); accepted July 29, 1986]

August 19, 1986

1 Appeal Considerations
2 Appeal Hearings: 174 Castro Street #A [G41-15(R)]
1700 Waller Street #3 [H101-5(A)]
Both cases accepted August 5, 1986.

VIII. Adjournment

President Payne adjourned the meeting at 6:10 p.m.



SF
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1
8/12/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

August 12, 1986

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

AUG 8 1986

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 1090 Hampshire #2	[H01-6(A)]
B. 3323 Mission Street #1	[H01-7(R)]
C. 53 Valley Street	[H01-7(A)]
D. 2280 Pacific Ave., #201	[H01-8(R)]

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business

- IX. New Business
- X. Appeal Hearing

6:00 p.m. 465 Burnett Street #12 [Appeal No. G41-18(A)]

- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment



SF
R52
#2
8/12/86

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 12, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Alviar, Carrico, Chinchilla, Payne

Staff Present: O'Hearn, Ruiz

Commissioners How, Curran and Waller appeared on the record at 5:40 p.m.

Commissioner Marshall appeared on the record at 5:43 p.m.

Commissioner Chan appeared on the record at 5:45 p.m. and went off the record at 5:46 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of August 6, 1986, as written. (Alviar/Carrico: 4-0)

5
DOCUMENTS DEPT.

IV. Consideration of Appeals

AUG 19 1986

A. 1090 Hampshire #2 [H001-06(A)]

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The tenant petitioned for a rent reduction, claiming that her housing services were decreased and an illegal rent increase had been imposed. The landlords were involved in a prior Rent Board decision [G138-35(E) dated April 2, 1986] wherein it was determined that the structure was a five-unit building. The hearing officer found that the building in question was a five-unit building and was therefore not exempt from the Rent law; that because the September 1, 1985, lease was invalid, the rent increase was illegal, and, that there had been a substantial decrease of services. Landlord appeals this decision on the ground that additional evidence submitted to Hearing Officer was not considered.

MSC: To accept this appeal and to remand the case to the same Hearing Officer.
(Carrico/Payne: 3-2; Marshall and Chinchilla dissenting).

B. 3323 Mission Street [H001-07(R)]

The landlord petitioned for and was granted certification of certain capital improvements. The tenant appeals this decision on the following grounds that: (1) she did not have an opportunity to present her evidence because she arrived late; (2) the roof work did not benefit her unit; (3) the Hearing Officer granted more than what was requested by the landlord on his petition; and, (4) the landlord gave notice of increase before filing petition and is not entitled to increase retroactive to that date.

MSC: To deny this appeal.

(Chinchilla/Alviar: 4-1; Marshall dissenting).

C. 53 Valley Street #1 [H001-07(A)]

The landlord's agent petitioned for a rent increase based on capital improvements. All parties were duly noticed. Tenants appeared. However, neither the landlord nor his representative appeared for the scheduled hearing. The Hearing Officer dismissed the case, without prejudice to the filing of another petition.

MSC: To accept this appeal and to remand for a hearing.

(Chinchilla/Marshall: 5-0)

D. 2280 Pacific Ave. #201 [H001-08(R)]

The tenant petitioned for a rent reduction, claiming that his housing services were decreased and that the landlord had failed to do requested repair and maintenance that is required by law. The Hearing Officer determined that the tenant failed to demonstrate that there had been a substantial decrease in services, or that there had been a failure to maintain and repair. The petition was denied. The tenant appeals this decision on the grounds that: (1) the Hearing Officer forgot to turn on tape recorder for the first half hour; (2) the untimely decision of the Rent Board due to the unavailability of the Hearing Officer; and, (3) the Board's ruling on another case in favor of two other tenants in the same building with identical issues.

MSC: To deny this appeal.

(Chinchilla/Alviar: 4-1; Marshall dissenting)

V. Communications

The Board received the following communications:

- A. Letter from the tenant's representative regarding the case at 746 South Van Ness [Appeal No. H001-02(A)], confirming the stipulation of the parties to reschedule the appeal hearing date for August 26, 1986. Postponement was approved by the Board at the meeting of August 5, 1986.
- B. Roster of Rent Board Commissioners and Staff.
- C. Copy of State Supreme Court decision in Pennell vs. City of San Jose allowing "tenant hardship" factor to be considered for setting a rent increase as provided for in the Rent Ordinance of the City of San Jose.
- D. Newspaper article regarding a landlord in one of the eviction cases that the Rent Board is monitoring.
- E. The written appeal decision regarding the property at 3848 Sacramento Street #3 [Case No. E134-16(P), Appeal Nos. F22-09(A) & F22-12(A)] approved by the Board and signed by President Payne.
- F. Copy of the Rules & Regulations dated May 1986, which incorporates amendments from March to May.

VI. Director's Report

Deputy Director O'Hearn informed the Board that she would be a speaker at a meeting of the Friends of Masonic Order, on August 13, 1986.

VII. Old Business

Vice President Marshall informed the Board that a draft of the Proposed Regulations for Section 37.9(a)(13) (Ellis Bill) will be presented to the Board next week.

VIII. Appeal Hearing

465 Burnett Street #12 [Appeal No. G41-18(A), accepted July 29, 1986]

The landlord appeals the hearing officer's decision on the tenant's petition concerning an improper rent increase for unit #12. Due to the fact that the tenant occupies three units in the property, the landlord claims that only one of the tenant's unit should be covered by the Ordinance.

The hearing commenced at 6:24 p.m. and the record was closed at 6:40 p.m. Robert Bacci, the landlord's attorney, appeared to present legal argument. The tenant did not appear.

MSC: To uphold the Hearing Officer's decision and deny this appeal.
(Chinchilla/Marshall: 3-2; Payne and Carrico dissenting).

President Payne requested that the staff set an appointment with the City attorney to discuss this issue.

IX. Calendar Items

August 19, 1986

6 appeal considerations

2 appeal hearings:

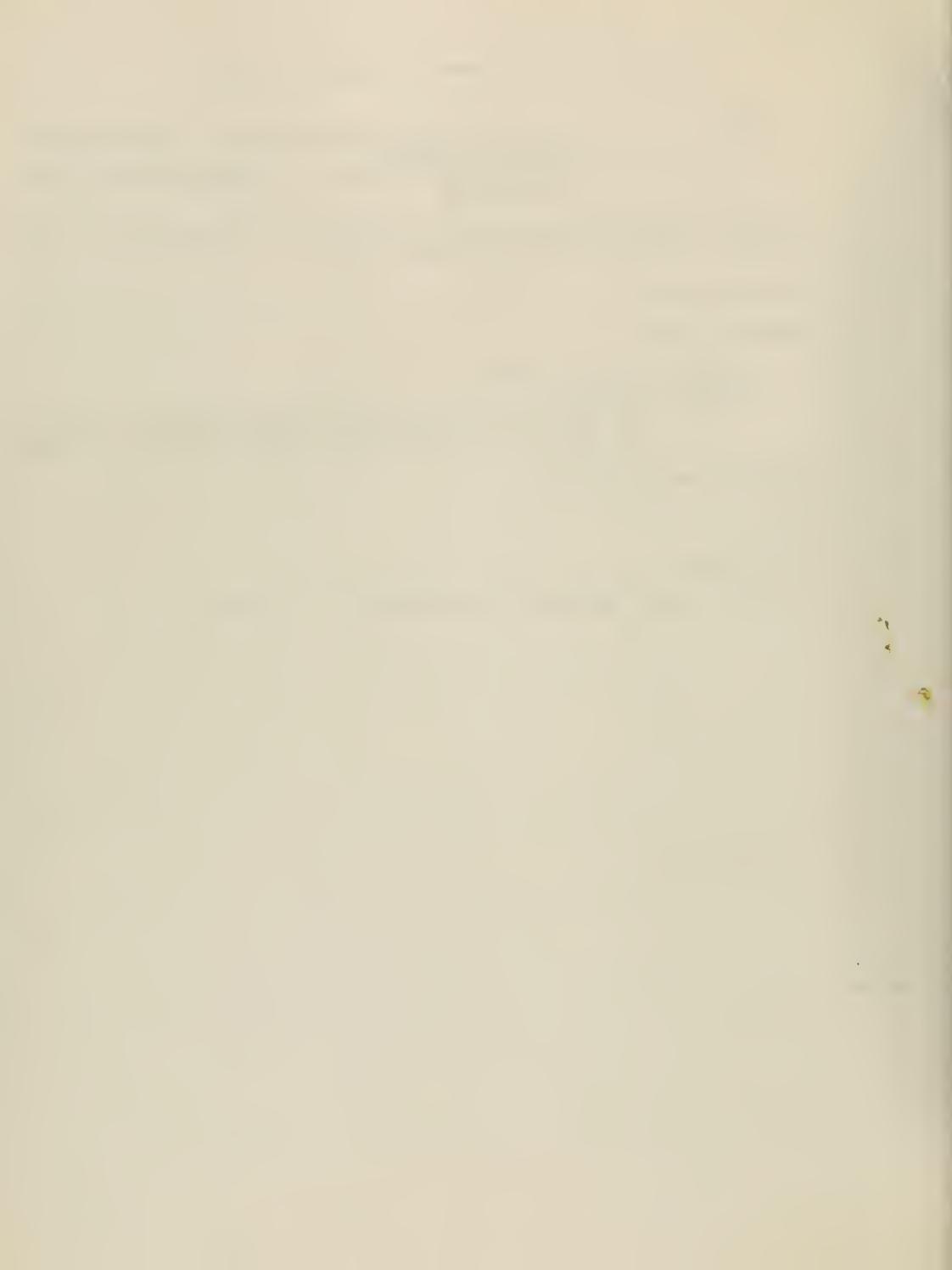
1. 174 Castro #A [G41-15(R)] accepted August 5, 1986
2. 1700 Waller #3 [H001-05(A)] accepted August 5, 1986

X. Remarks from the Public

None.

XI. Adjournment

President Payne adjourned the meeting at 6:55 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

August 19, 1986

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

AUG 19 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 129 Lexington St. #1 [H1-4(A)]
- B. 144 Sanchez St. [H1-8(A)]
- C. 145 Laurel St. #7 [H1-9(A)]
- D. 589 Post St. #222 [H1-9(R)]
- E. 157 Varennes St. [H1-10(A)]
- F. 5 Ruth St. #1 [H1-11(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

- Proposed Regulations Regarding Ordinance Section 37.9A

IX. New Business

X. Appeal Hearings

- | | | |
|------|-----------------------|--|
| 6:00 | A. 174 Castro St. #A | [Appeal No. G41-15(R) accepted 8/5/86] |
| 6:30 | B. 1700 Waller St. #3 | [Appeal No. H1-5(A) accepted 8/5/86] |

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 19, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:34 PM.

II. Roll Call

Commissioners Present: Chinchilla, Curran, Marshall, Payne, Waller

Commissioners Not Present: Alviar, Chan

Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 5:46 PM.
Commissioner How appeared on the record at 5:57 PM.

III. Approval of the Minutes:

MSC: To adopt the Minutes of August 12, 1986, with the following correction:

page 1, A: (Carrico/Payne: 4-1;
Chinchilla dissenting).

IV. Consideration of Appeals:

A. 129 Lexington St. #1, #3 [H1-4(A)]

The landlord appealed the Hearing Officer's determination, finding that the owner had evicted several tenants in violation of the Ordinance and finding that the current eviction matters were also based on wrongful eviction attempts for the following reasons: the notices were defective, but the owner continued to refuse rent and ask the tenants to move, despite education by the Rent Board; the identities of which relatives were to live in which units kept changing; the owner had had several opportunities to move into the building but did not do so, including renting to friends in units vacated for owner-occupancy. On appeal the owner stated she had not had ample opportunity to defend her position at the hearing.

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Curran: 4-0)

B. 144 Sanchez St. [H1-8(A)]

Landlord appealed the Hearing Officer's ruling that disallowed a 35% rent increase because the owner had not proved that the 3-unit building had been her principal residence for the required 6-month period. Tenants maintained that owner was there infrequently, usually on weekends, and that only landlord's daughter--with no ownership interest--lives there on a full-time basis. The owner testified she travels on business and therefore lives on the premises mainly on weekends; but she maintains on appeal that the exemption section, Ordinance 37.2(p)(5), only requires that she has "resided" in the building for six months.

MSC: To accept the case for a hearing at the Board level on September 2, 1986.
(Chinchilla/Curran: 4-0)

C. 145 Laurel #7 [H1-9(A)]

Landlord appealed Hearing Officer's "addendum" decision, clarifying issues which had arisen subsequent to earlier hearings in March 1986, and supplementing the original decision resulting from those hearings. Hearing Officer ruled on the issues of reduction in storage space and rent increase. The earlier decision had determined that no substantial decrease in the storage space had been proved, but stayed an annual rent increase until certain maintenance and repair problems were remedied. The addendum ruling held that any reduction in the current storage area arrangement would constitute a decrease in services, and stated that the owner could not on April 25, 1986, use a rent increase notice given February 27, 1986, to activate a retroactive rent increase. On appeal, owner contested both rulings.

MSC: To uphold the Hearing Officer and deny the appeal.
(Marshall/Chinchilla: 5-0)

D. 589 Post St. #222 [H1-9(R)]

Tenant appealed the decision of the Hearing Officer which

allowed an over-the-guidelines rent increase. Tenant had been a manager at a residential hotel for approximately seven years. When his employment was terminated, it was agreed that the tenant would be relocated to a similar hotel, moving expenses would be paid by the landlord, and rent forgiven for approximately two months. After moving, tenant received notice that his rent at the new building would be \$380, but he attempted to pay \$190, the amount he thought was appropriate. Hearing Officer found that tenant had moved into a vacant, decontrolled unit and that the \$380 rental amount was therefore allowable. On appeal tenant stated that termination of his employment was unlawful; that he was under no legal obligation to relocate and would not have done so if landlord's attorney had not threatened him with an Unlawful Detainer action; and that any agreement so reached was under duress and therefore invalid. Tenant maintained that the value of his work should be taken into consideration in setting the rent in the unit to which he relocated.

MSC: To uphold the Hearing Officer and deny the appeal.
(Carrico/Chinchilla: 5-0)

E. 157 Varennes St. [H1-10(A)]

Landlord appealed the ruling of Hearing Officer, terming "excessive" an award of 10% to compensate tenant for inability to use a closet because of leaks. The case had been heard at the Rent Board on three occasions, with a settlement apparently reached after the second hearing. However, the petitioner did not sign the settlement agreement, so the hearing was reconvened and the subject decision issued. The settlement stipulated that the tenants would move and waive all claims, in return for forgiveness of four months rent. On appeal owner stated that the agreement had not been signed because the tenants had a disagreement, resulting in an unsuccessful small claims court suit between them. The Petitioner then reopened the case with the Rent Board. Owner maintains that the petitioner had a decision rendered on the merits in two different forums, and that her claim was therefore settled before the final Rent Board hearing.

MSC: To continue the case for one week.
(Chinchilla/Carrico: 5-0)

F. 5 Ruth Street #1 [H1-11(A)]

Landlord appealed the ruling of Hearing Officer which found null and void rent increases for the years 1983, 1984, and 1986 because said increases were above the allowable guideline amount. On appeal owner maintained that tenant's rental agreement stipulated that only one person could occupy the unit, but that multiple occupants had been present as early as one year after the start of the tenancy, including tenant's husband after her 1983 marriage. Owner stated that tenant had agreed to a \$50 increase for an additional person.

- MSC: To remand the case to the same Hearing Officer to obtain more details and make written findings on the following:
- a. Specific findings about the alleged extra tenant;
 - b. Explanation of which increases (and amounts) were not allowed and why.
(Curran/Chinchilla: 5-0)

V. Appeal Hearings

A. 174 Castro St., #A [G41-15(R)]

An appeal hearing was scheduled for 6:00 PM and began on the record at 6:19 PM. Appearing were tenant-appellant Justus Machicao and his representative David Simon, Esq.; and landlord-appellant's representatives John Tealdi, Anthony Romano, Esq., and Dominic Cannizzaro, Esq. Commissioner Curran disclosed previous acquaintance with legal representatives on both sides; a legal representative for each party waived any objection to Commissioner Curran's hearing and voting on the case. After receiving testimony and evidence, the Commissioners closed the record at 7:02 PM.

Background:

Tenant has lived in apartment A for approximately 40 years. In June 1966 he rented a room in apartment B, which he testified was vacant at that time. He has continued to use this room, specifically to give Spanish lessons. In October 1985 the tenant who has resided in apartment B since 1967 was granted sole use of the room in dispute, as the result of a court action in Unlawful Detainer. The appellant then filed a petition for decrease in services with the Rent Board. He asserted that his rent should be lowered in compensation for

the loss of the room. The landlord maintained that any agreement for the use of the room--reached before his ownership began--was between the tenants only, and the owner had no knowledge of this agreement until fairly recently. The Hearing Officer did not grant the tenant's petition, since there was insufficient evidence to show the tenant paid an additional amount for use of the room, and because any decrease was not instigated by the landlord. On appeal, the Rent Board Commissioners voted to hear the case at the Board level.

Hearing Before the Commissioners:

At the appeal hearing the tenant maintained that he had been deprived of 25% of the floor space he'd had for 20 years, and that he should therefore receive a corresponding reduction in rent. Because the owner did not accept his discounted rent checks, the tenant had been placing his monthly rent in a bank savings account. He testified that his original agreement for use of the room was with a prior landlord, and that he should not continue to pay the current landlord for space he no longer was allowed to use. In response the landlord's representative stated that the arrangement was solely between the tenants, as is evidenced by the UD action instigated by and resolved between the tenants, with no involvement from the owner. The representative further argued that the Rent Law was not meant to protect commercial tenancies, as in the use of this room for conducting Spanish lessons, for which the tenant received compensation.

After discussion of the testimony and evidence, the Commissioners voted as follows:

- MSC1: To vacate the Hearing Officer's decision and find that the tenant experienced a decrease in services.
(Curran/Marshall: 4-1; Commissioner Carrico dissenting)
- MSC2: To find that the decrease in services is worth \$15.00 per month since October 1985 and until such time as the use of the room may be restored.
(Curran/Payne: 3-2; Commissioners Chinchilla and Marshall dissenting)

B. 1700 Waller #3 [H1-5(A)]

A hearing was scheduled for 6:30 PM and began on the record at 7:18 PM. Appearing were landlord-appellant Angela Mark and her representative Arthur Sandusky, Esq; and tenant-respondent Robert Warren and his representative Michael McCloskey, Esq..

Before proceeding on the record, the Commissioners inquired about the terms of a settlement reached in this matter pursuant to a court action. The settlement resulted in a one year lease for the tenant, beginning August 1, 1986, and in the forgiveness of rent from April through July 1986, in return for tenant's dropping all actions against owner for wrongful eviction. When questioned by the Board as to why a further hearing was needed, the owner's representative indicated that his client wanted to remove the "cloud" that hung over the matter as a result of the Hearing Officer's determination that the attempted eviction was wrongful. The Commissioners accordingly went forward with the scheduled hearing, on the eviction matter. After entertaining testimony and evidence, the case was closed at 7:57 PM.

Background:

Tenant had filed a Report of Alleged Wrongful Eviction and a tenant petition for decreased housing services. The Hearing Officer found the attempted eviction for owner-occupancy to be wrongful, as a tenant in a comparable unit died prior to the expiration of the notice period; and awarded a rent reduction for loss of storage space. On appeal the landlord maintained that the storage space was not part of the original rental agreement and asserted that the Hearing Officer materially misstated the facts regarding the eviction matter. The Board voted to hear the cases.

Hearing Before the Commissioners:

The owner's representative testified that his client took over management of the property January 1, 1986, as part of a dissolution settlement. On March 10, 1986, she gave tenant a termination notice for owner-occupancy. She stated, through her representative, that she had inspected all apartments and desired his because it was in the best condition and had traditionally been the manager's unit. Tenant had resided in apartment #3 since February 1983. Until the owner took over management, tenant had acted as unofficial on-site manager for owner's ex-husband.

Tenant testified, and owner agreed, that the tenant in #1 had been ill and behind on his rent. Owner informed that tenant's mother of the arrearages, and the mother began paying her son's rent. Tenant testified, through his attorney, that owner knew

the tenant in #1 was terminally ill and that his mother was paying back rent, through March 15, 1986. He further stated that the mother of the tenant in #1 removed all of her son's possessions on March 15, 1986; that he died on March 29, 1986; and that tenant's attorney informed owner in an April 3, 1986 letter that #1 was completely vacated and that the eviction notice for #3 should be rescinded since a comparable vacant unit existed. He further testified that the owner had asked him to give any keys that he might receive to the maintenance man. Accordingly on April 7, 1986, the tenant gave the maintenance man the keys which he had been given for #1. Tenant testified that the maintenance man immediately moved into #1 and lived there for a period of time as a nonpaying tenant. In rebuttal, owner stated that she had no direct knowledge that the unit was available until after the notice period had expired; that she had no legal right to enter to investigate because the rent was paid through April 15, 1986; that she did not know the tenant in #1 was terminally ill; and that she denied the allegation that the maintenance man moved into #1.

After discussing the testimony and evidence presented, the Commissioners voted as follows:

MSC: To uphold the Hearing Officer's determination that the attempted eviction was wrongful; and to make minor technical corrections in the decision.

(Marshall/Curran: 5-0)

VI. Communications:

- A. The decision concerning the appeal hearing at 465 Burnett was approved by the Board.
- B. The Commissioners were given copies of an article from the Chronicle pertaining to hardship petitions brought under the San Jose rent ordinance.
- C. The Deputy Director prepared for the Board a memo of the newly-hired Hearing Officers.

VII. Director's Report

- A. Executive Director Ricardo Hernandez informed the Commissioners that the PUC will soon be moving to the new State Building.

Since the Rent Board is loaned the use of their room for the Board's Commission meetings, it is uncertain at this time where the Rent Board Tuesday night meetings will be held in the future.

- B. Mr. Hernandez informed the Board that there will be no Commission meeting September 9, 1986, as it is the Admissions Day holiday.

VIII. Old Business:

- a. The Deputy Director gave the Commissioners copies of the first draft of the proposed Ellis Bill Rules and Regulations. The matter will be discussed September 16, 1986.

IX. Calendar Items:

August 26, 1986

- 6:00-- 9 appeal considerations
appeal hearing: 746 S. Vann Ness #1 [H1-2(A)]--accepted
July 29, 1986

September 2, 1986

- 6:00-- 5 appeal considerations
1413-15th Street [G40-85(A)]--accepted 7/22/86
6:45-- 144 Sanchez [H1-8(A)]--accepted 8/19/86

September 9, 1986

NO MEETING: ADMISSIONS DAY

X. Adjournment:

President Payne adjourned the meeting at 8:54 PM.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

August 26, 1986 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1998 Fell St.
 - B. 630 6th Ave.
 - C. 1355 Bay St., #11, 4 & 10
 - D. 30 Kingston St.
 - E. 1388 California St.
 - F. 3326 26th Street
 - G. 1801 Laguna
 - H. 2059 Market St.
 - I. 157 Varennes St.
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - A. Hearings
- VIII. Old Business
- IX. New Business
- X. Appeal Hearing
 - 1. 6:00 p.m. 746 So. Van Ness #1
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 26, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Chinchilla called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present:	Alviar; Chinchilla; How; Waller.
Commissioners not Present:	Carrico; Chan; Curran; Marshall; Payne.
Staff Present:	Hernandez; O'Hearn.

III. Approval of the Minutes

MSC: To approve the Minutes of August 19, 1986 as written.
(Alviar/How: 4-0.)

IV. Consideration of AppealsA. 1998 Fell St. [Appeal No. H1-10(R)]

The tenant appeals the Hearing Officer's decision finding no rent overcharge of a 1981 capital improvement increase granted by the Board in October 1981, but finding an unlawful increase in August 1984 resulting in overcharges of \$500.40. The tenant construes the 1981 decision to allow a 10% capital improvement increase for a period of only one year, thereby resulting in overcharges dating back to 1982. The decision in this case depends on the appropriate interpretation of the prior Board decision.

MSC: To accept this appeal and schedule the case for a hearing before the Commissioners. (How/Alviar: 4-0.).

B. 630 6th Avenue
[Appeal No. H1-17(A) of decision G100-65(T) and
Appeal No. H1-11(R) of remand decision G40-81(A)]

The landlord timely appeals the Hearing Officer's decision granting the tenant's petition concerning rent overcharges of \$335.54 based on a 5.7% increase instead of 4% paid beginning March 1, 1984. The landlord contends that the increase is valid because it was imposed on February 23, 1984 instead of March 1, 1984 when the annual guideline was reduced from 7% to 4%.

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MSC: To deny the landlord's appeal on Case No. G100-65(T).
(How/Waller: 4-0.).

The tenant additionally appeals the remand decision granting a capital improvement increase of \$15.72 (as corrected with interest) calculated as directed by the Board to benefit only the two residential units, instead of dividing the amortized cost by three units, including the garage below the units. On May 13, 1986 the Board accepted the landlord's appeal of the original decision [Case No. G15-22(C)] issued on April 8, 1986 and remanded the case to the same hearing officer for recalculation. The Commissioners discussed the Board's prior action on this case as none of them voted on the original appeal on May 13, 1986.

MSC: To deny the tenant's appeal on remand Case No. G40-81(A). (How/Alviar: 3-1; Waller dissenting.)

C. 1355 Bay Street, apts. 11, 4 & 10
[Appeal Nos. H1-12(R) through H1-14(R)]

Three tenants appeal the Hearing Officer's decision on their landlord's rent increase petition [Case No. G16-20(C)], consolidated with four tenant petitions [Case Nos. G101-25(T) through G101-28(T)] concerning a reduction in housing services and improper PG&E calculations. The hearing officer granted increases of \$21.52 for capital improvements and an additional 7% increase for increased operating and maintenance expenses, and denied the tenants' petition as to their decrease in services claim. On appeal they dispute the decision on their petitions and refer to a prior 1985 Board decision concerning this property brought by another tenant who was granted a rent decrease for the same claims.

MSW: To deny these appeals. (Alviar/How.)

After further discussion, the Commissioners continued consideration of the appeals for one week and requested staff to summarize prior cases on this property related to these issues for the next Board meeting.

D. 30 Kingston Street [Appeal No. H1-12(A)]

The landlord filed this appeal 31 days after the mailing of the decision to contest the hearing officer's award of a 25% rent reduction based on the tenant's loss of use of 1 room and an additional 20% for loss of weatherproofing. Although the landlord failed to appear at the hearing, he does not claim any lack of notice of the proceedings. Instead, he claims that the award is excessive and that the tenants failed to mitigate the damages.

MSC: To deny this appeal. (Waller/Alviar: 4-0.)

E. 1388 California Street #407 [Appeal No. H1-13(A)]

The landlord filed this appeal 16 days after the mailing of the decision which granted the tenant's petition finding a substantial decrease in services due to inadequate hot water service and deprivation of private bath facilities. The hearing officer granted a corresponding monthly rent reduction of \$50.00 prior to April 10, 1986 and \$20.00 after that date when some work was done. The landlord attached to his appeal signatures of other tenants to verify the adequacy of the hot water supply after April 10, 1986.

MSC: To deny this appeal. (Waller/Alviar: 3-1; How dissenting.)

F. 3326 26th Street [Appeal No. H1-14(A)]

The landlord appeals the Hearing Officer's decision granting the tenant's petition based on decrease in services and unlawful increases. The hearing officer granted a 5% decrease for a bedroom leak and an inadequate heater, and an additional 10% decrease if those and other problems are not remedied. Although the landlord failed to appear at the hearing, his appeal does not contend lack of notice. Instead, he disputes the findings and in particular he states that he gave the over-guideline increase for water and garbage to all of the tenants. In a subsequent letter to the Board, the landlord stated that he was out of the country at the time of the hearing.

MSC: To accept this appeal and remand the case to a new hearing officer. (Alviar/How: 4-0.)

G. 1801 Laguna Street #A [Appeal No. H1-15(A)]

The landlord appeals the Hearing Officer's decision granting the tenant's petition concerning an unlawful increase. The hearing officer found that an oral agreement in January 1986 established the monthly rent for \$1,200, subsequently increased to \$1,400 in February 1986 pursuant to written agreement. The landlord disputes the facts and claims insufficient evidence to support the decision.

MSC: To accept this appeal and schedule the case for a hearing before the Commissioners. (Alviar/Waller: 4-0.).

H. 2059 Market Street [Appeal No. H1-16(A)]

The landlord filed a rent increase petition based on both capital improvement costs and increased operating and maintenance expenses. The hearing officer granted capital improvement increases, but denied additional increases because the landlord failed to submit verification of certain expenses. On appeal the landlord states that he explained the labor costs at the hearing, offered to submit

cancelled checks and did submit a letter. He also disputes the deduction of the PG&E rebate.

MSC: To deny this appeal. (Alviar/Waller: 4-0.)

I. 157 Varennes [Appeal No. H1-10(A)]

The landlord's appeal in this case was scheduled for Board consideration the previous week, but continued in order to determine the hearing officer's role, if any, in Small Claims Court.

MSC: To deny this appeal. (Waller/Alviar: 4-0.)

V. Appeal Hearing

746 So. Van Ness Ave. [Appeal No. H1-2(A)]

On July 29, 1986 the Board accepted the landlord's appeal of the Hearing Officer's decision on Petition G98-3(T), filed by the tenant on February 26, 1986. The primary issue on the tenant's petition concerns allegations of a substantial decrease in housing services. The Hearing Officer granted the following rent decreases:

- 5% for sink problems for 5 months up to 4/86;
- 10% for leaking roof beginning 10/85;
- 5% for bathroom problems beginning 11/85; and
- 2% for hot water heater problems beginning 11/85.

Also at issue in the case is the number of tenants who reside at the premises and the number permitted under the rental agreement. The tenant's copy of the agreement specifies no number of occupants whereas the landlord's copy specifies the number "6."

The appeal hearing began at 6:44 p.m. and closed at 8:05 p.m. Attending were the landlord, his attorney, two witnesses for the landlord, the tenant, her representative, and her 2 witnesses, including the tenant's daughter who lives at the premises.

Following the hearing, the Commissioners discussed the evidence, including testimony, which had been submitted. They noted that the credibility of the parties was crucial in deciding how many persons lived in the unit, but that the evidence submitted by the landlord was not necessarily helpful. However, they did agree that the conduct of the parties, especially at the beginning of the tenancy, established that the number of occupants was limited to six persons. As to the decrease in services, the Commissioners also agreed that the conditions of the unit justified the award granted by the hearing officer.

MSC: To affirm the Hearing Officer's decision with modifications to correct certain factual errors. (Waller/How: 4-0.)

VI. Communications

A. An updated copy of the Rent Ordinance.

B. A letter from the appellant's attorney in Appeal No. G41-8(R) concerning 2821 Pine Street #2 indicating that the appeal is withdrawn because the case had been settled. The Board accepted the appeal on July 1, 1986 and the scheduled Board hearing was continued at the parties' request.

C. A memo from the Mayor's Office regarding the swearing-in ceremony for four of the Commissioners' reappointment to the Rent Board scheduled for August 28, 1986.

VII. Calendar Items

September 2, 1986

8 appeal considerations on 4 cases plus 3 considerations on 1 case continued from 8/26/86; and 2 appeal hearings:
6:00 1413-15th Street [G40-85(A)]--accepted 7/22/86
6:45 144 Sanchez St. [H1-8(A)]--accepted 8/19/86

September 9, 1986

NO MEETING: ADMISSIONS DAY

September 16, 1986

8 appeal considerations on 6 cases; and 2 appeal hearings:
6:00 1998 Fell Street [H1-10(R)]--accepted 8/26/86
6:45 1801 Laguna St. #A [H1-15(A)]--accepted 8/26/86

Old Business: discussion of proposed draft Ellis Regulations

VII. Adjournment

Commissioner Chinchilla adjourned the meeting at 8:25 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

September 2, 1986

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II Roll Call

AUG 29 1986

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 1355 Bay Street, apts. 11, 4 & 10
[H1-12(R) through H1-14(R)]
- B. 1269 10th Avenue #2 [H1-17(R)]
- C. 444 Hyde Street, apts. 25, 12 & 21
[H1-16(R), H1-17(R) & H1-18(A)]
- D. 265 Fell St., apts. 403 & 606 [H1-19(A) & H1-22(A)]
- E. 159-A, 161-A & 165 Russ Street [H1-20(A)]
- F. 455 Eddy Street #1207 [H1-21(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

IX. New Business

X. Appeal Hearings

- 6:00 A. 1413 15th Street (Appeal No. G40-85(A) accepted 7/29/86)
6:45 B. 144 Sanchez Street (Appeal No. H1-8(A) accepted 8/19/86)

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 2, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Chinchilla called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico, Chinchilla, Waller
Commissioners not Present: Alviar, Chan, Curran, How,
Marshall, Payne. DOCUMENTS DEPT.
Staff Present: Hernandez, Wolf.

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III. Approval of the Minutes

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MSC: To approve the minutes of August 26, 1986, as written (Waller/Carrico: 3-0).

IV. Consideration of Appeals

A. 1355 Bay Street, Apts. 11, 4 & 10
[Appeal Nos. H001-12(R) through H001-14(R)]

Three tenants appeal the hearing officer's decision on their landlord's rent increase petition [Case No. G16-20(C)], consolidated with four tenant petitions [Case Nos. G101-26(T) through G101-28(T)] concerning a reduction in housing services and improper P. G. & E. calculations. The hearing officer granted increases of \$21.52 for capital improvements and an additional 7% increase for increased operating and maintenance expenses, and denied the tenants' petition as to their decrease in services claim. On appeal they dispute the decision on their petitions and refer to a prior 1985 Board decision concerning this property brought by another tenant who was granted a rent decrease for the same claims.

This case was originally considered on August 26, 1986, at which time it was continued for one week.

MSC: To remand this case to the same Hearing officer for clarification regarding the alleged decreased services.
(Carrico/Waller: 3-0).

B. 1269 10th Avenue #2 [H001-17(R)]

Tenant filed a petition alleging an illegal rent increase, as landlord was imposing an additional charge for garage parking. The hearing officer found that the landlord was entitled to the additional rent as the tenant was parking two cars in the single garage space, instead of one. On appeal, tenant alleges that she never received a copy of a statement submitted by the landlord prior to the hearing.

MSC: To deny this appeal [Carrico/Waller:3-0].

C. 444 Larkin Street, apts. 25, 12 & 21 [H001-16(R), H001-18(A), H001-15(R)]

Tenants petitioned regarding decreased services, as the method of garbage disposal in the building had changed and there has also been a change in management. The hearing officer awarded tenants a rent reduction for the additional distance required to dispose of their garbage, attributable to the advanced age and frail health of at least one of the petitioners. Landlord appeals this decision on the grounds that continuation of the previous method of garbage disposal would constitute a code violation. Tenants appeal the decision, alleging certain factual errors: that the new management is not responsive; and that safety, and not age and frailty, is the concern regarding garbage disposal.

MSC1: To deny the appeal in case number H001-16(R).
(Carrico/Waller: 3-0).

MSC2: To deny the appeal in case number H001-18(A).
(Carrico/Waller: 3-0).

MSC3: To deny the appeal in case number H001-15(R).
(Carrico/Waller: 3-0).

D. 265 Fell Street, #503 [H001-22(A)]

Tenant petitioned regarding decreased housing services and received an award due to: a sealed bathroom window; sooty window due to sandblasting interfering with his view; no hot water for three days; and no heat for one week. On appeal, landlord maintains that he has complied with City Building codes in sealing the window shut to end leakage, that the tenant has always cleaned his own windows and therefore no decrease exists, and that the tenant has ulterior motives in filing this complaint.

MSC: To deny this appeal (Carrico/Waller: 3-0).

E. 265 Fell Street, #606 [H001-19(A)]

Tenant petitioned regarding a \$100.00 increase in rent due to an alleged violation of the rental agreement. The hearing officer found in tenant's favor, ruling that the original lease allowed for

three persons in the unit, and ordered repayment of the null and void increase. In his appeal, the landlord alleges that the tenant tampered with the rental agreement and maintains that it allowed for occupancy by one person only.

This case was originally considered on May 27, 1986. At that time, it was remanded to the same hearing officer to make a Finding as to which lease is valid. The hearing officer again found in the tenant's favor. The landlord appeals this most recent decision on essentially the same grounds, and alleges bias on the part of the hearing officer.

MSC: To deny this appeal
(Waller/Chinchilla: 2-1; Carrico dissenting).

Consideration of this appeal will be continued for two weeks.

F. 159A, 161A & 165 Russ Street [H001-20(A)]

Three tenants petitioned and received substantial decreased services awards due to serious habitability problems. On appeal, the landlord maintains that all problems except for one not raised at the hearing, have been abated. The landlord also wishes an offset of rent allegedly not paid by tenants.

MSC: To deny this appeal (Waller/Carrico: 3-0).

G. 455 Eddy Street #1207 [H001-21(A)]

Tenant petitioned and received a 5% rent reduction for decreased security services. Tenant's unit is located in a high-crime neighborhood and tenant maintains that management's prior practice of "buzzing-in" tenants was safer than tenants having to use their own keys to gain entrance. Tenant is afraid that prior tenants still have keys to the building, and the "buzzing-in" practice forced the security guards to keep an eye on the front door. On appeal, landlords maintain that the "buzz-in" policy is actually detrimental to the safety and security of the building's tenants and that the amount of the award is disproportional to the value of the service.

MSC: To accept this appeal and schedule a hearing at the Board level. (Carrico/Chinchilla: 2-1; Waller dissenting).

MSC: To accept this appeal and schedule a hearing at the Board level. (Carrico/Chinchilla: 3-0).

V. Appeal Hearings

A. 1413 15th Street [G40-85(A)]

An appeal hearing was scheduled for 6:00 p.m. and began on the record at 6:15 p.m. Appearing were tenants Silvia Pardillo and Derly Pardillo, tenants' daughter Silvia Pardillo, tenants' representative Luis Camacho; and landlord Aura Silva, landlord's representative Michael Rossoff, prior owner Amanda Arostegui, landlord's son Octavio Ruiz, and landlord's witness Francisco Medrano. Commissioner Waller disclosed his acquaintance with landlord's attorney, but the tenants had no objection to his hearing and voting on the case. After receiving testimony and evidence, the Commissioners closed the record at 7:09 p.m.

The question in this case is whether this is a four or five-unit building for purposes of the owner-occupancy exemption. At issue is whether a basement room constitutes a fifth rental unit. Tenants allege that the room had a separate address and mailbox, which have been removed, that it previously had been used for a carpet business, and that the owner's son resides there. Landlord maintains that the room cannot be considered a rental unit as it has no bathroom or cooking facilities, that it is only used as living quarters in conjunction with the upstairs unit, and that any previous commercial use is irrelevant to application of the Rent Ordinance.

After discussion of the testimony and evidence, the Commissioners voted as follows:

MSC: To find that this is a four-unit building and therefore exempt from Rent Board jurisdiction. (Carrico/Waller: 1-2; Chinchilla, Waller dissenting).

Consideration of this case will be continued for two weeks.

B. 144 Sanchez Street [H001-08(A)]

An appeal hearing was scheduled for 6:45 p.m., and began on the record at 7:20 p.m. Appearing were landlord Maxine Lubow, landlord's attorney Joseph Sacramento, landlord's witnesses Ray Lubow, Cheryl Lubow, and John Baldor; and tenants Ron Glass, David Scholes, and Paul Kamner. Commissioner Carrico disclosed a prior business relationship with one of the landlord's witnesses, but the tenants had no objection to his hearing and voting on the case. After receiving testimony and evidence, the Commissioners closed the record at 7:44 p.m.

The issue in this case is whether the owner has met the six-month residency requirement in order for this building to qualify for the owner-occupancy exemption. The landlord maintains that she and

her husband are separated, that she resides in the Sanchez Street unit with her daughter, although she has been employed in Santa Clara County, that she travels frequently for work, and that her husband is responsible for management of the subject premises. Evidence of San Francisco voter registration was provided. The tenants allege that they only see the landlord on the premises on weekends, that they have always contacted landlord at her home in San Jose regarding repairs, that the utility and phone bills are inconclusive as her daughter does reside in the unit, and that the landlord is still listed as co-owner of the San Jose residence by the Tax Assessor's Board. Landlord stated that she has been spending a great deal of time at another daughter's residence in San Jose due to domestic difficulties, but, as she has quit her job and enrolled at San Francisco State University, she will be "up a great deal more".

After discussion of the testimony and evidence, the Commissioners voted as follows:

MSC: To uphold the hearing officer's decision and find that the building is not exempt at this time. (Waller/Carrico: 3-0).

VI. Communications

The Board received the following communications:

- A. Letter regarding a potential settlement of the case at 265 Fell Street.
- B. Letter regarding the case at 2090 Broadway.
- C. Letter regarding the case at 1355 Bay Street.

VII. New Business

- A. The Board discussed the possibility of re-scheduling the discussion of proposed Ellis regulations on September 23rd instead of September 16th.
- B. Commissioner Chinchilla expressed his growing concern regarding decrease in services awards. A discussion of this issue will be scheduled for a future Board meeting.

VIII. Calendar Items

September 9, 1986

No Meeting: Admissions Day.

September 16, 1986

7 appeal considerations (1 case continued from 9/2/86).

2 appeal hearings:

6:00 1998 Fell Street [H001-20(R)] - accepted 8/26/86
6:45 1801 Laguna St. #A [H001-15(A)] - accepted 8/26/86

Old Business: discussion of proposed draft Ellis Regulations.

IX. Adjournment

Commissioner Chinchilla adjourned the meeting at 8:15 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

September 16, 1986 at 5:30

State Building, 350 McAllister St. #1158

AGENDA

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|--|---------------------------------|
| I. Call to Order | SEP 1 0 1986 |
| II. Roll Call | SAN FRANCISCO
PUBLIC LIBRARY |
| III. Approval of the Minutes | |
| IV. Consideration of Appeals | |
| A. 739 Haight Street #306 [H001-23(A)] | |
| B. 1471 15th Street, #6 [H001-24(A)] | |
| C. 601 Minnesota #C [H001-19(R)] | |
| D. 150 Carl St. #8, 10, & 11 [H001-20-22(R)] | |
| E. 2090 Broadway (19 units) [H001-23-41(R)] | |
| F. 2090 Broadway #803 [H001-19(R)] | |
| G. 265 Fell St. #606 [H001-19(A)] (cont. from 9/2/86) | |
| V. Communications | |
| VI. Director's Report | |
| VII. Consideration of Allegations of Wrongful Evictions | |
| A. Report from Staff | |
| A. Hearings | |
| VIII. Old Business | |
| A. Proposed Ellis regulations | |
| B. 1413 15th St. [G040-85(A) - heard 9/2/86] | |
| IX. New Business | |
| X. Appeal Hearing | |
| 1. 6:00 1998 Fell St. [H001-10(R)] - accepted 8/26/86 | |
| 2. 6:45 1801 Laguna St. #A [H001-15(A)] - accepted 8/26/86 | |
| XI. Calendar Items | |
| XII. Remarks from the Public | |
| XIII. Adjournment | |

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 16, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Payne called the meeting to order at 5:42 p.m.

II. Roll Call

Commissioners Present: Alviar; Chinchilla; Curran;
Marshall; Payne; Waller.

Commissioners not Present: Carrico.

Staff Present: Hernandez; O'Hearn.

Commissioner Chan appeared at 5:58 p.m. and left at 7:22 p.m.
Commissioner How appeared at 6:08 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of September 2, 1986 with corrections on pages 3 and 4 to reflect the failures of motions with less than three votes.
(Alviar/Chinchilla: 4-0.)

IV. Consideration of Appeals

A. 739 Haight Street #306 [Appeal No. H1-23(A)]

The landlord appeals the hearing officer's decision on the tenant's petition alleging a substantial decrease in housing services and the landlord's failure to repair and maintain. The hearing officer granted the petition on both issues awarding a \$25.00 per month decrease due to ceiling leaks and prohibiting the landlord from imposing the annual increase until completion of ceiling repairs. The landlord argues that relief should not be granted under both grounds and that the decrease should only apply during the rainy season.

President Payne disclosed a business relationship with the landlord and requested that he be excused from consideration of this case.

MSC: To excuse Commissioner Payne from consideration of this appeal. (Chinchilla/Alviar: 4-0.)

MSC: To accept this appeal and remand the case to another hearing officer for another hearing to re-examine whether the tenant has suffered both a decrease in services or a failure to repair and maintain.
(Chinchilla/Alviar: 3-0.)

B. 1471 15th Street #3

[Appeal No. H1-24(A)]

The landlord filed an appeal 19 days after the mailing of the hearing officer's decision. The hearing officer granted the tenant's petition and prohibited the landlord from imposing the annual increase until completion of pest control, wall and floor repairs, and remedy of mold problems. The landlord failed to appear at the hearing allegedly due to a "misunderstanding" in that he appeared two days early.

MSC: To deny this appeal. (Chinchilla/Alviar: 4-0.)

C. 601 Minnesota St. #C

[Appeal No. H1-18(R)]

Tenants of one of the units filed an appeal to dispute the "Mediated Settlement" by the hearing officer on the landlord's petition for rent increase consolidated with nine tenant petitions. The tenants contend that the hearing officer failed to include the decrease claim in their petition [No. G103-10(T)] concerning daytime noise.

MSF: To deny this appeal. (Chinchilla/Alviar: 2-2; Marhsall and Payne dissenting.)

MSC: To accept the appeal and remand the matter to the hearing officer. (Marshall/Payne: 3-1; Alviar dissenting.)

D. 150 Carl Street
units 8, 10 & 11

[Appeal Nos. H1-20(R) through
H1-22(R) and H1-28(A)]

The three tenants filed appeals contending that the hearing officer erred in computing their rent as of April 1985 when the property became subject to the Rent Ordinance following termination of the RAP loan which previously made the property subject to the RAP Ordinance. They argue that their rents should be rolled back to the amounts in effect when the Rent Ordinance was adopted in 1979 and then include rent increases permitted under the Rent Ordinance rather than their rents in April 1985 which included increases permitted under the RAP Ordinance.

The landlord also filed an appeal 16 days after the mailing of the decision, resubmitted 7 days later with the appeal form and filing fee. The landlord disputes the hearing officer's rent decrease awards based on loss of storage space and loss of use of garden space.

MSC: To accept the landlord's appeal and schedule a hearing on those issues before the Board. (Chinchilla/Alviar: 4-0.)

MSC: To deny the tenants' appeals. (Chinchilla/Alviar: 5-0.)

E. 2090 Broadway

[Appeal Nos. H1-19(R), H1-23(R)
through H1-41(R)]

The tenants of 20 units appeal the hearing officer's decision

granting their landlord's petition for rent increases for 24 of the 41 units at this building. They contend that the principles of res judicata and collateral estoppel should bar the landlord from the increases because the landlord's prior petition was denied. They also contend that the evidence does not substantiate the increases and that the landlord failed to perform repair and maintenance.

At the meeting the Commissioners received the landlord's brief in opposition to the tenants' appeals. In order to allow time to review both the appeals and opposition, the Commissioners decided to continue the appeal consideration to their next meeting.

F. 265 Fell Street #606 [Appeal No. H1-19(A)]

This case was continued from the Board's last meeting on September 2, 1986. The landlord appeals the hearing officer's decision on remand granting the tenant's petition alleging an improper rent increase. The issue on remand concerned whether the tenants' or the landlord's copy of the lease is valid.

MSF: To deny this appeal. (Marshall/Chinchilla: 2-3; Alviar, How and Payne dissenting.)

MSC: To accept the appeal and schedule a hearing before the Board. (Alviar/Chinchilla: 5-0.)

V. Communications

A. Continuance Requests

1. The Board granted the continuance request concerning 1998 Fell St. [Appeal No. H1-10(R)] and postponed the appeal hearing scheduled for September 16, 1986 to September 30, 1986.

2. The Board denied the request concerning 455 Eddy St. #1207 [Appeal No. H1-21(A)] to schedule the appeal hearing at an earlier hour than 6:00 p.m.

B. The agenda for the September 8, 1986 meeting of the Small Business Advisory Commission.

C. The letters from the mayor concerning the reappointments of Commissioners Carrico, Curran, Marshall and Waller.

D. The August 1986 statistics for the Rent Board.

E. Two September 15, 186 articles in the San Francisco Examiner.

F. Written appeal decisions

1. The Board approved the decision concerning 174 Castro Street #A [Appeal No. G41-15(R)].

2. The Board requested revisions on the decision concerning 1700 Waller St. #3 [Appeal No. H1-5(A)].

3. The Board approved the decision concerning 746 So. Van Ness Blvd. [Appeal No. H1-2(A)].

VI. Director's Report

The Executive Director corrected the figure for the total number of petitions filed as 469 to be listed in the August 1986 statistic sheet.

He also discussed some problems with the agency's abilities to obtain certain office supplies due to the City's Divestment Ordinance.

VII. Appeal Hearing

1801 Laguna St. #A [Appeal No. H1-15(A)]

The Board accepted the landlord's appeal on August 16, 1986. Present at the appeal hearing were the landlord, her attorney, her witness, and the tenants.

The tenants' petition alleges an improper rent increase from \$1,200 to \$1,400 per month. The landlord claims to have approved a new tenancy at the higher rate when the tenants signed a lease on February 20, 1986. One of the tenants began occupancy in January 1986 and another contends that he has been in continuous occupancy since June 1985.

Following the hearing, the Commissioners discussed the evidence and conflicting testimony of the parties. Noting that the landlord attempted to evict the tenants without just cause prior to the signing of the lease, some Commissioners found the tenants' testimony more credible than that of the landlord and her witness who had collected rent.

MSC: To establish the base rent at \$1,200.00 per month.
(Marshall/Alviar: 3-2; How and Payne dissenting.)

VIII. Old Business

A. 1413 15th St. [Appeal No. G40-85(A)]

The Board held its appeal hearing on this case on September 2, 1986, but continued the matter due to a lack of majority vote by the three members present at that meeting. President Payne, who was not present, listened to the recording of the appeal hearing. He stated that he was in agreement with the failed motion made by Commissioner Carrico at the previous meeting on September 2, 1986. Therefore, there still being no majority, the Board again continued the case to its next meeting.

B. Proposed Ellis Regulations

The Board briefly discussed the draft of proposed regulations to administer Ordinance Section 37.9A. President Payne requested staff to solicit any input from Commissioner Carrico. The Board determined to schedule a public hearing on October 14, 1986. Further review of draft regulations will be completed prior to that date.

IX. Calendar Items

Many Commissioners noted that they would be unable to attend the September 23, 1986 Board meeting due to other events scheduled at that time. Finding that there would be a lack of majority present, they carried the following motion:

MSC: To cancel the Board meeting on September 23, 1986.
(Chinchilla/Alviar: 5-0.)

Therefore, appeal considerations scheduled for that date will be postponed to September 30, 1986.

September 23, 1986

No meeting.

September 30, 1986

7 cases for appeal considerations
1 eviction reconsideration request
2 appeal hearings:

1998 Fell St. [Appeal No. H1-10(R)] postponed from 9/16/86;
150 Carl St. [Appeal No. H1-28(A)] accepted 9/16/86.

Old Business:

1413 15th St. [Appeal No. G40-85(A)] heard 9/2/86;
Proposed Ellis Regulations.

October 7, 1986

2 cases for appeal considerations
2 appeal hearings:

455 Eddy St. #1207 [Appeal No. H1-21(A)] accepted 9/2/86;
265 Fell St. #606 [Appeal No. H1-19(A)] accepted 9/16/86.

October 14, 1986

Public Hearing on proposed Ellis regulations.

X.

Adjournment

President Payne adjourned the meeting at 8:29 p.m.



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9/20/86

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

September 30, 1986

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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A.	2090 Broadway (20 units)	[H1-19(R), H1-23(R) through H1-41(R)] cont. from 9/16/86
B.	234 17th Avenue #1	[H1-26(A)]
C.	609 & 611 Fell Street	[H1-42(R) through H1-44(R)]
D.	655 Kansas Street #407	[H1-45(R)]
E.	3052-A 25th St.	[H1-27(A)]
F.	643 Oak St. #2	[H1-29(A)]
G.	143 Dolores St.	[H1-30(A)]

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions

2651 Bryant Street #2 [G2-10(E)]
Request for reconsideration of hearing officer's recommendation

- VIII. Old Business
- A. 1413 15th Street [G40-85(A) heard 9/2/86)
- B. Proposed Ellis Regulations

- IX. New Business
- X. Appeal Hearings

- | | | |
|------|---|---|
| 6:00 | A. 1998 Fell Street
(accepted 8/28/86; postponed from 9/16/86) | [Appeal H1-10(R)] |
| 6:30 | B. 150 Carl Street
units 8, 10 & 11 | [Appeal H1-28(A)]
(accepted 9/16/86) |

- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

0945A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 30, 1986 at 5:30 p.m. at the State Building, 350 McAllister Street #1158

I. Call to Order

President Payne called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Carrico; Chan; How; Marshall;
Payne.

Commissioners not Present: Armstrong; Chinchilla.

Staff Present: Hernandez; O'Hearn.

Commissioner Alviar appeared on the record at 5:41 p.m. and left at 6:22 p.m. Commissioner Curran appeared on the record at 5:45 p.m. Commissioner Waller appeared on the record at 6:00 p.m. Commissioner Chan left at 6:22 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of September 16, 1986 as written. (Marshall/How (for Carrico): 5-0.)

IV. Consideration of Appeals

A. 2090 Broadway Street [Appeal Nos. H1-19(R), H1-23(R) through H1-41(R)]

The tenants of 20 units appeal the hearing officer's decision granting their landlord's petition for rent increases for 24 of the 41 units at this building. The consideration of their appeals was postponed from the last meeting on September 16, 1986 in order to allow the Board time to review both the appeals and opposition.

MSC: To excuse Commissioner Carrico from consideration of this case. (Marshall/Chan: 5-0.)

MSC: To accept these appeals and schedule a hearing before the Board. (Marshall/Chan: 4-1; How dissenting.)

B. 232-34 17th Avenue [Appeal No. H1-26(A)]

The landlord appeals the hearing officer's decision granting his capital improvement passthrough application. The landlord objects to the hearing officer's determination that the 1982 rent increase exceeded the lawful 7% amount and was therefore null and void.

MSW: To deny the appeal. (Marshall/Chan)

MSC: To accept the appeal and schedule a hearing before the Board. (Alviar/Carrico: 5-0.)

C. 609-611 Fell Street [Appeal Nos. H1-42(R) through H1-44(R)]

Three tenants appeal the hearing officer's decision granting their landlord's application for capital improvement increases. They contend that the hearing officer erroneously included an item which the landlord had deleted by amendment to his petition at the hearing.

MSC: To excuse Commissioner Carrico from consideration of this case. (Marshall/Chan: 5-0.)

MSC: To accept the appeal and remand the case to the same hearing officer for technical corrections and clarification of ownership. (How/Alviar: 4-1; Chan dissenting.)

D. 655 Kansas St. #407 [Appeal No. H1-45(R)]

One of the tenants appeals the decision of the hearing officer on remand pursuant to other tenants' appeals of the original decision on their landlord's rent increase petition consolidated with their decrease petitions. Although he no longer resides at the property, the tenant believes the remand decision erroneously excludes him from consideration of the remand issue concerning additional rent for additional tenants.

MSC: To accept this appeal and schedule a limited hearing before the Board. (Marshall/Payne: 4-1; Payne dissenting.)

E. 3052-A 25th Street [Appeal No. H1-27(A)]

The landlord filed an appeal 19 days after the decision was mailed. The landlord failed to appear at the hearing on the tenant's petition alleging both illegal increases and a substantial decrease in housing services due to lack of fumigation services, a broken toilet water pump, lack of linoleum, and broken window cords. The hearing officer granted the decrease in service claim and awarded a 5% decrease from January to May 1986 and a 10% decrease from May 1986 to the present.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Chan: 5-0.)

F. 643 Oak Street #2 [Appeal No. H1-29(A)]

The landlord filed an appeal 16 days after the decision was mailed. The landlord failed to appear at the hearing on the tenant's petition. He claims not to have received notice of the hearing because the tenant's petition listed his address at apartment #1 at the property whereas the manager's apartment is #3 and the owner lives in Pacifica. 0958A

The tenant filed his petition on May 15, 1986 and the landlord obtained an unlawful detainer judgment against the tenant on June 20, 1986, upheld on appeal on August 28, 1986.

MSC: To accept the appeal and remand the case for a new hearing. (Alviar/Carrico: 5-0.)

V. Appeal Hearings

A. 150 Carl Street [Appeal H1-28(A)]
units 8, 10 & 11 accepted on September 16, 1986

MSC: To grant the tenants' request for a postponement of the appeal hearing and reschedule the hearing on October 14, 1986. (Carrico/Waller: 4-0.)

B. 1998 Fell Street [Appeal H1-10(R)]

The Board accepted the tenant's appeal on August 26, 1986. The case concerns the tenant's petition alleging illegal rent increases following a 1981 Board decision on the landlord's capital improvement application. The primary issue on appeal was the interpretation of the 1981 decision.

Representatives for both parties appeared and argued in support of differing interpretations. The hearing commenced at approximately 6:30 p.m. and closed at 7:00 p.m. Following the hearing, the Commissioners reviewed the 1981 decision and discussed the current case.

MSC: To affirm the hearing officer's decision and expressly deny the tenant's claim for attorney fees. (Curran/Carrico: 4-0.)

VI. Remarks from the Public

Gabriella Ricci addressed the Board concerning its procedures on eviction matters. (Her mother owns property at which a tenant who suffers from AIDS has been unable to pay rent. The tenant recently filed a wrongful eviction report with the Board.) In particular, she requested that the Board mediate an eviction matter because her mother cannot afford to take the matter to court.

VII. Communications

The Board received withdrawals of the following appeals:

143 Dolores St. [H1-30(A)] off calendar for 9/30/86.
265 Fell St. #606 [H1-19(A)] 10/7/86 hearing off calendar.
.601 Minnesota #C [H1-18(R)] remanded on 9/16/86.

VII. Director's Report

The Executive Director reported that a new Commissioner, Miriam Armstrong, was sworn in by the Mayor today. She will be President Payne's alternate. Commissioners Curran, Marshall and Waller were also sworn in for re-appointment.

It is expected that at the next Planning, Housing & Development Committee meeting, Supervisor Hsieh will introduce proposed amendments to the Rent Ordinance to increase the filing fees and extend the appointment period of the Commissioners. Former Supervisor Renne previously was expected to introduce the amendments, which were continued from the July PH&D calendar.

For the month of September, both the number of petitions filed and the number of units affected exceed Board records.

The city recently obtained a \$250,000 settlement on a suit involving evictions and code violations at the Crane Hotel at 245 Powell Street. The City Attorney's Office filed the suit against the landlords in 1984 pursuant to a referral from the Rent Board.

The Executive Director also discussed current eviction reports filed with the Board. Investigatory hearings are scheduled only under the circumstances required pursuant to Board Rules and Regulations Section 12.11 for referral to the Board which in turn may refer such cases to the District Attorney and/or City Attorney. The Commissioners discussed the possibility of funding for mediation of eviction cases or for court assistance to the parties. They also discussed follow-up of their letter sent to the Mayor six months ago.

VIII. Consideration of Allegation of Wrongful Eviction

2651 Bryant Street #2

[G2-10(E)]

The landlord requests reconsideration of the hearing officer's recommendation in this case. Since the Commissioners had not received the materials in their packets, they agreed to postpone consideration of this matter to the next Board meeting.

IX. Old Business

A. 1413 15th Street

[G40-85(A)]

The Board heard this appeal on September 2, 1986, but continued the case due to a lack of majority vote at that time. Subsequently, both President Payne and Commissioner Curran listened to the tape recording of the hearing and reviewed the case file. Commissioner Curran stated that he believed the evidence supported a finding that the building contained four instead of five residential units. He noted that there were no amenities in the "fifth unit" and no prior use except to store tools.

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MSC: To reverse the hearing officer's decision and to find that the building contains four units, thus exempting the property from the jurisdiction of the Rent Board. (Curran/Carrico: 3-1; Waller (for Marshall) dissenting.)

B. Proposed Draft Ellis Regulations.

The Board discussed draft Ellis Regulations which are scheduled for public hearing on August 14, 1986. The draft of new Section 12.17 for procedures regarding evictions under Ordinance Section 37.9(a)(13) will be revised and distributed with the Notice of Public Hearing.

X. Calendar Items

October 7, 1986

3 cases for appeal considerations.

1 appeal hearing:

455 Eddy St. #1207 [Appeal No. H1-21(A)] accepted 9/2/86;

October 14, 1986

1 case for appeal consideration.

Public hearing on proposed Ellis regulations.

1 appeal hearing:

150 Carl Street, units 8, 10 & 11 [Appeal No. H1-28(A)] accepted 9/16/86.

VI. Remarks from the Public (continued)

Don Hesse, from the Human Rights Commission, addressed the Board to support the previous remarks of Mrs. Ricci and to inform the Board about a pending rent increase for the tenants at 44 McAllister Street, which is a California Housing Rehabilitation Program (CHRP) building. The tenants have filed petitions with the Board, but Mr. Hesse wanted to assure the Commissioners that Board staff has acted properly in this matter. He also requested Board action to prohibit exemptions for all CHRP buildings.

X. Adjournment

President Payne adjourned the meeting at 8:30 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

October 7, 1986

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1600 Clement St. [H1-31(A)]
 - B. 23 Franklin St. #201 [H1-47(R) & H1-32(A)]
 - C. 252 Collingwood [H1-33(A)]
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
 - 2651 Bryant Street #2 [G2-10(E)]
 - Request for reconsideration of hearing officer's recommendation
- VIII. Old Business
 - A. Rent Ordinance coverage of tenant use of multiple units
 - B. Proposed Ellis Regulations- public hearing October 14, 1986
- IX. New Business
- X. Appeal Hearing
- 6:00 455 Eddy Street #1207 [Appeal H1-21(A)]
(accepted 9/2/86 and postponed from 9/23/86)
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD Tuesday, October 7, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:40 p.m. He expressed the pleasure of the Board in welcoming newly-appointed Commissioner Miriam Armstrong.

II. Roll Call

Commissioners Present: Armstrong; Carrico; Marshall;
Payne; Waller.

Commissioners not Present: Alviar; Curran

Staff Present: Hernandez; Wicks

Commissioner Chinchilla appeared on the record at 5:42 p.m.
Commissioners Chan and How appeared on the record at 5:53 p.m.
Commissioner Waller went off the record at 7:12 p.m. and
Commissioner Chan went off the record at 7:48p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 30, 1986, with the following correction:

Page 5, IX. Old Business 1413-15th Street:
(Curran/Carrico: 3-1; Waller dissenting.)

IV. Old Business

- A. Deputy City Attorney Kathryn Pennypacker spoke, at the Commissioners' request, to the subject of "unusual" tenancies and whether they are protected by the Rent Ordinance. She discussed the broad wording of the Law and her belief that tenants who rented several units or used their apartment on an occasional basis were still covered by the Ordinance. She volunteered to investigate the special legal considerations involved with corporate tenancies.

V. Consideration of Appeals

A. 1600 Clement Street [H1-31(A)]

The landlord appealed the Hearing Officer's decision on remand, in which the arbitrator was instructed to review documentary evidence concerning cleaning and maintenance--referred to in the previous appeal--and to address the issue of roof leaks. On remand the tenant was given an award for the leaks; no award for loss of cleaning services or heat was

given. On appeal from the remand hearing the owners protest that their documentation concerning heating is accurate, and that the tenant is falsifying statements regarding a nonexistent leakage problem.

- MSF: To accept the appeal at the Board level on the issue of whether the leak constitutes a decrease in service or failure to repair and maintain. (Chinchilla/Payne: 1-3; Commissioners Carrico, Marshall, and Payne dissenting.)
- MSC: To deny the appeal and make a technical correction that cites the Rule which recently replaced the previous policy directive. (Carrico/Payne: 3-1; Commissioner Chinchilla dissenting.)

B. 23 Franklin St. #210 [H001-32(A)]

Both the landlord and the tenant appealed the Hearing Officer's ruling concerning a tenant's petition for decrease in service and failure to maintain and repair. The tenant, a fifteen-year resident, had complained of numerous repair needs and insufficient maintenance of common areas. Various of the problems were the subject of BBI citations. At the hearing the owner stated that some of the work had already been done and agreed to attend to the repair needs by October 1, 1986. The Hearing Officer allowed the tenant a rent reduction if the repairs and maintenance were not performed by October 1, 1986. On appeal the owner contended that some of the work did not need to be done, that the tenant did not allow access for repairs and maintenance in his unit, and that some complaints had already been taken care of. On appeal the tenant stated that the repairs had not been made, he did not get a rent reduction, and his court costs had not been paid by the landlord.

- MSC¹: To deny the tenant's appeal.
(Chinchilla/Marshall: 4-0.)
- MSC²: To accept the landlord's appeal and remand the case to the same Hearing Officer for specific findings on existing repair conditions. If so warranted, the tenant shall be awarded a reduction in rent.
(Chinchilla/Marshall: 3-1; Commissioner Payne dissenting.)

C. 252 Collingwood St. [H001-33(A)]

The landlord appealed the determination of the Hearing Officer involving a four-bedroom house with multiple tenant occupants. The tenant at issue had moved into the building in January 1985, with a shared rent of \$950.00. The two other tenants vacated and were replaced in August 1985, with a \$250 monthly increase. These two tenants also vacated and were replaced, with a \$200 monthly rent increase imposed, effective June 1986. The Hearing Officer ruled that both increases were null and void, as they were above the annual allowed amount for apartments with continuing tenancies; since the subject tenant remained during this period, the unit was not decontrolled as she was an original tenant. On 0965A

appeal the landlord argued that this tenant should not be protected since the owner has no lease with her, that she had been asked by the other tenants to leave, and that she had not objected to paying the \$1200 for nearly a year.

MSC: To accept the appeal and schedule a Board hearing on the issue of whether or not the subject tenant is an original tenant for purposes of the rent increases.
(Chinchilla/Carrico: 4-0.)

VI. Appeal Hearing

455 Eddy #1207 [H1-21(A)]

An appeal hearing was scheduled for 6:00 p.m. and began on the record at 6:35 p.m. Appearing were tenants-respondents Susan and Paul Liebhaber; landlord's attorney Nancy Lenvin; manager Vicki Gray; and landlord's witnesses Jerry Bakken, Tom Del Torre, and William Duser. After accepting testimony and documentary evidence, the hearing was closed at 7:46 p.m.

Background:

The tenants had petitioned for a rent reduction for decreased security services and received a 5% award. The tenants' unit is located in a high-crime neighborhood, and they maintain that the previous management's practice of "buzzing-in" tenants was safer than the current procedure of having residents use their own keys to gain entrance. The tenants believed that security of the building is jeopardized because previous tenants do not turn in their keys, and the security guards no longer maintain uninterrupted surveillance of the front door or question unfamiliar persons entering the building. On appeal the landlords maintain that they actually found security compromised when they reinstated the buzzing-in service but assert that they cannot afford to continue the safer key-in system if awards are granted for the alleged decrease. Further, the landlords insist that there has been no reduction in services but rather an increase in the care with which security is handled.

Hearing Before the Commissioners:

The tenants reaffirmed their position from the original hearing. They testified that they would not have taken up residence in the building if they had not been assured that 24-hour security was diligently maintained. Aside from the inconvenience of having to use a key, they believe that security is seriously jeopardized since the guards no longer insist on either visual recognition or proof of identity from those entering. In rebuttal, the landlord's representatives and witnesses testified that security in the building has not been decreased, that entry by key is the security industry's preferred method, and that protection of the tenants in this building is equal to or superior to security measures taken in other buildings in the area. They also testified that the use of visual recognition is impractical in this property since there are between 700 and 800 residents.

After evaluating the testimony and evidence, the Commissioners voted as follows:

MSC: To reverse the Decision of the Hearing Officer and find that the change in security practices does not constitute a substantial decrease in services.
(Carrico/Payne: 4-0.)

VII. Communications

- A. Parties for all three appeal considerations submitted further arguments.
- B. The Commissioners were given copies of the Mayor's State of the City statement.
- C. A letter of gratitude from St. Peter's Housing Committee to Eviction Unit Advisor Pedro Ruiz, thanking him for an informative presentation, was distributed to the Board.
- D. The monthly stastics for September 1986 were reviewed.
- E. The appeal hearing decision for 1998 Fell Street was approved.

VIII. Director's Report

- A. Executive Director Ricardo Hernandez discussed the September stastics. It was pointed out that there was a dramatic increase in the petitions filed that month. Problems with finding sufficient time and location to hold the resulting hearings were discussed.
- B. It was announced that the Mayor would not be able to honor the Commissioners' request to schedule a meeting with them at this time, but that the Deputy Mayor would be glad to meet with them in the near future if they wished.
- C. The Board was informed that City Attorney Louise Renne expressed her interest in talking with the Commissioners.
4. Mr. Hernandez discussed planning for the next budget cycle and some priorities for the coming fiscal year.

IX. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration of Hearing Officer's Recommendation

2651 Bryant St. #2 [G002-10(E)]

The owner asked for reconsideration of the Hearing Officer's recommendation of August 6, 1986, in which it was found that the tenant had been improperly denied reentry to his apartment, resulting in a wrongful eviction. The tenant testified that in November 1985 he alone remained after his family vacated--at the owner's request--so that necessary repairs suggested by the tenant could be performed . The 0965A

tenant left for a few days on vacation and found on his return that the locks had been changed. The owner advised him to find another residence. In response to Rent Board inquiries, the owner stated he did not want the tenant to live there because of domestic turmoil and damage to the unit; he further maintained the tenant had abandoned the premises. The basis for the request for reconsideration was the Hearing Officer's mistaken omission of a "not" in a written statement submitted from another tenant.

MSC: To deny the request for reconsideration of the Hearing Officer's recommendation. (Chinchilla/Marshall: 4-0.)

X. Old Business (continued)

B. The Commissioners were given copies of the revised draft of the Ellis Bill Regulations, proposed Rules Section 12.17. The Commissioners discussed logistics for the Public Hearing on proposed Rule 12.17, to be held October 14, 1986, at 7:30 p.m.

XII. New Business

Commissioner Chinchilla expressed concern about the blurring of the distinction between failure to repair and decrease in services. He offered to work on a policy directive that would clarify the proper application of each theory.

XIII. Calendar Items

October 14, 1986

1 appeal consideration
6:00 1 appeal hearing: 150 Carl Street [H001-20(R), 21(R)]
(accepted September 16, 1986)
7:30 PUBLIC HEARING--Proposed Rule Section 12.17.

October 21, 1986

1 appeal consideration
2 appeal hearings:
6:00 655 Kansas #407 [H001-45(R)] (accepted September 30,
1986)
6:30 2090 Broadway [H001-19(R) through 23(R)] (accepted
September 30, 1986)

XIV. Adjournment

Commissioner Payne adjourned the meeting at 9:00 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD Tuesday, October 7, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEP

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I. Call to Order

President Payne called the meeting to order at 5:36 p.m. SAN FRANCISCO PUBLIC LIBRARY

II. Roll Call

Commissioners Present:	Armstrong; Carrico; Chinchilla; Curran; Marshall; Payne; Waller.
Commissioners not Present:	Alviar.
Staff Present:	Hernandez; O'Hearn.

Commissioner Chan arrived at 5:40 p.m. and left at 7:00 p.m. Commissioner How arrived at 5:45 p.m. Commissioner Carrico excused himself off the record at 6:55 p.m and returned at 7:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 7, 1986, as corrected. (Chinchilla/Carrico: 5-0.)

IV. Consideration of Appeals

698 Bush Street [Appeals H1-30(A) & H1084(R) through H1-86(R)]

The landlord timely appealed the hearing officer's decision on this rent increase petition and three of the tenants filed an appeal 25 days after the hearing officer's decision was mailed. The hearing officer granted increases for capital improvements, but denied increases for operating expenses which included prospective debt service. The landlord objects to the hearing officer's determination that prospective debt service did not apply to this petition which was filed before the Board amended Regulation 6.10(a) on June 24, 1986.

In response to the landlord's appeal and additionally in their own appeal, the tenants contend that any base rent increase should be prohibited until the landlord makes necessary repairs. They state that the hearing officer erred in rejecting this defense raised at the hearing on the basis that they had not filed separate petitions.

MSC: To accept the landlord's appeal and remand the case on the record in order for another hearing officer to apply former Regulation 6.10(a). (Chinchilla/Carrico: 5-0.)

MSC: To accept the tenants' appeals and remand the case to another hearing officer for consideration of evidence on the landlord's failure to repair and maintain. (Marshall/Chinchilla: 5-0.)

V. Communications

A. Postponement Requests

1. 655 Kansas St. #407 [Appeal H1-45(R)]

The Board accepted this tenant appeal on September 30, 1986 and scheduled a hearing before the Board on October 21, 1986. The landlord's attorney requests a postponement of the hearing due to the unavailability of the landlord.

MSC: To grant the postponement request subject to the appellant's waiver of applicable time limits.
(Curran/Carrico: 5-0.)

2. 2090 Broadway St. [Appeal H1-19(R) through H1-23(R)]

The Board accepted these tenant appeals on September 30, 1986 and scheduled a hearing before the Board on Octobe 21, 1986. The tenant's attorney requests a postponement of the hearing in order to obtain a transcript of the hearing before the hearing officer.

MSC: To grant the postponement request subject to the appellants' waiver of applicable time limits.
(Curran/Chinchilla: 5-0.)

B. Board Decisions on Appeal

1. 1413 15th Street [Appeal G40-85(A)]

The Board appoved the written appeal decision with corrections.

2. 144 Sanchez St. [Appeal H1-8(A)]

The Board also approved this decision which was rendered on September 2, 1986 following the appeal hearing.

C. The Board received a copy of a letter dated October 13, 1986 to Alicia Wicks, the Board's Eviction Unit Supervisor, from the Barristers Club of San Francisco thanking her for her participation as a panelist in the Tenant-Landlord Law program.

D. The Board received a letter requesting court testimony concerning a Board hearing due to the incompleteness of the Board's tape recording of the hearing. Requesting staff to respond, the Commissioners agreed that such voluntary testimony would be inappropriate and noted their differing recollections of the particular hearing.

VI. . Appeal Hearing

150 Carl St., #s 8, 10 & 11 [Appeal H1-28(A)]

All of the parties appeared along with their attorneys. The hearing commenced at 6:30 p.m. and ended at 7:45 p.m.

The Board accepted the landlord's appeal on September 16, 1986. The landlord disputed the hearing officer's rent decrease awards for loss of storage space and loss of use of partial garden space. The landlord did not dispute the award for loss of fireplace.

At the outset of the hearing the parties stipulated to the hearing officer's findings of fact, except for paragraph 7. Following testimony and argument the Commissioners discussed the case. They noted the lack of substantiality, particularly as to the garden space, and the need for clarification concerning Regulation 10.10(c) as to claims for services decreased more than one year prior to the date of filing the petition. By motion, seconded and carried, the Commissioners made the following decision:

MSC: To affirm the hearing officer's award with respect to the loss of storage space, except for tenant Barzano (#8), and reverse the hearing officer's award with respect to the garden space. (Marshall/Chinchilla: 3-2; How and Payne dissenting.)

VII. Public Hearing

Draft Regulation on Procedures regarding evictions under Ordinance Section 37.9(a)(13).

In response to draft Rules & Regulations new Section 12.17, the following persons spoke to the Board:

Jess Grant requested more specificity be required on the notice to terminate tenancy to include notice of the tenant's right to re-occupy the premises.

Gunvant Shah requested that the tenant establish the relocation costs.

Following the close of the public hearing, the Commissioners continued their consideration of the matter to the next Board meeting.

VIII. Old Business

The Board requested follow-up on its prior approval of a letter to the City Attorney commending the Deputy City Attorneys who worked on the lawsuit against the landlords of the Crane Hotel.

IX. Calendar Items

October 21, 1986

Appeal Considerations of 1 case

October 28, 1986

Appeal Considerations of 3 cases

Appeal Hearings on 3 cases:

6:00	232-34 17th Avenue	[H1-26(A)] (Accepted 9/30/86);
6:30	252 Collingwood	[H1-33(A)] (Accpeted 10/7/86);
7:00	655 Kansas #407	[H001-45(R)] (Accepted 9/30/86, postponed from 10/21/86)

November 4, 1986 - No meeting: Election Day.

November 11, 1986 - No meeting: Veterans Day.

November 18, 1986

Appeal Hearing:

6:00	2090 Broadway	[H001-19(R) through 23(R)] (Accepted 9/30/86, postponed from 10/21/86)
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X. Adjournment

President Payne adjourned the meeting at 8:45 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

October 21, 1986

State Building, 350 McAllister St. #1158

AGENDA

- | I. | Call to Order | DOCUMENTS DEPT. |
|-------|--|---------------------------------|
| II | Roll Call | OCT 20 1986 |
| III. | Approval of the Minutes | SAN FRANCISCO
PUBLIC LIBRARY |
| IV. | Consideration of Appeals | |
| A. | 1390 Market Street | [H1-48(R) through H1-83(R)] |
| V. | Communications | |
| VI. | Director's Report | |
| VII. | Consideration of Allegations of Wrongful Evictions | |
| VIII. | Old Business | |
| | Proposed Regulations on Eviction Procedures under Ordinance
Section 37.9(a)(13) | |
| IX. | New Business | |
| X. | Calendar Items | |
| XI. | Remarks from the Public | |
| XII. | Adjournment | |

0970A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 21, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar; Chan; Chinchilla;
Marshall; Waller.

Commissioners not Present: Armstrong; Carrico; How; Payne.
Staff Present: Hernandez; O'Hearn.

Commissioner Curran appeared on the record at 5:35 p.m.

III. Approval of the Minutes

DOCUMENTS DEPT.

MSC: To approve the minutes of October 14, 1986 as corrected. (Chinchilla/Alviar: 3-0.) OCT 27 1986

SAN FRANCISCO
PUBLIC LIBRARY

IV. Consideration of Appeals

1390 Market Street [Appeals H1-48(R) through H1-83(R)]

Thirty-five tenants appeal the hearing officer's decision granting rent increases for 272 units at this property. The tenants specifically object to the allocation of insurance costs based on square footage.

MSF: To accept the appeals and schedule a Board hearing limited to the issue of allocation of insurance costs. (Alviar/Marshall: 2-1; Chinchilla dissenting.)

Failing to obtain a majority vote on the matter, the Commissioners continued the case for further consideration at its next meeting.

V. Communications

A. 455 Eddy Street [Appeal H1-21(A)]

The Commissioners reviewed the written draft of its decision on appeal pursuant to the determination on October 7, 1986 and requested staff to draft additional findings.

B. A letter complimenting Hearing Officer Kathleen Kirke-Young on her job in Case No. G15-44(C) and Remand No. G41-13(R).

C. The October 20, 1986 article in the S.F. Examiner concerning renovations of rental units.

D. Assembly Bill 3689 on eviction procedures for lodgers.

VI. . Director's Report

- A. The Director presented a series of tables on the numbers of petitions, reports and appeals filed each fiscal year. The total number of units affected as of October 21, 1986 is 39,880. The director expects that 8,700 units will be affected this year. As a result, the Board will need to seek supplemental budget appropriations.
- B. The Board of Supervisors Planning, Housing and Development Committee approved amendments to the Rent Ordinance to increase the filing fees and to extend the appointment period of Commissioners to 48 months.

VII. Consideration of Allegations of Wrongful Eviction

The Commissioners reviewed a report from the Eviction Unit Supervisor concerning 230 Lowell Street [G136-14(E)] to follow up on this case which the Board previously considered at its meeting of April 29, 1986. The Commissioners approved the President's signature on a letter to the landlord.

VIII. Old Business

- A. Proposed Regulations on Eviction Procedures under Ordinance Section 37.9(a)(13)

The Commissioners requested incorporation in draft Section 12.17(d) of the two comments made at the public hearing. A revised draft of that section will be submitted to the Board at the next meeting.

- B. The Board requested that staff draft a letter to the City Attorney commending the Deputy City Attorneys who worked on the Crane Hotel lawsuit.
- C. Vice-President Marshall requested follow up on the September 30, 1986 Board meeting discussion of eviction hearings. The Director reported further on the status of hearings and other forms of investigation pursuant to the Board's regulations. The Commissioners requested that this issue be put on next week's agenda for additional discussion.

IX. Calendar Items

- A. October 28, 1986

Appeal Considerations of 8 cases (including 1390 Market St.)
Appeal Hearings on 3 cases:

6:00	232-34 17th Avenue	[H1-26(A)] (Accepted 9/30/86);
6:30	252 Collingwood	[H1-33(A)] (Accepted 10/7/86);
7:00	655 Kansas #407	[H001-45(R)] (Accepted 9/30/86, postponed from 10/21/86)

Old Business:

Draft Regulation 12.17

Letter to City Attorney re: Crane lawsuit

Investigation/hearing procedures on evictions

B. November 4, 1986 - No meeting: Election Day.

C. November 11, 1986 - No meeting: Veterans Day.

D. November 18, 1986

Appeal Hearing:

6:00 2090 Broadway [H001-19(R) through 23(R)]

(Accepted 9/30/86, postponed from 10/21/86)

X. Adjournment

Vice -President Marshall adjourned the meeting at 6:40 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
October 28, 1986

State Building, 350 McAllister St. #1158

AGENDA

***** DOCUMENTS DEPT. *****

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|-------|--|-----------------------------|
| I. | Call to Order | NOV 20 2000 |
| II | Roll Call | SAN FRANCISCO |
| III. | Approval of the Minutes | PUBLIC LIBRARY |
| IV. | Consideration of Appeals | |
| A. | 1390 Market Street
(Continued from October 21, 1986) | [H1-48(R) through H1-83(R)] |
| B. | 3309 21st Street | [H1-34(A)] |
| C. | 324 Brazil Street | [H1-38(A)] |
| D. | 1016 Valencia Street | [H1-40(A)] |
| E. | 141 Blake Street | [H1-88(R)] |
| F. | 3666 19th Street | [H1-35(A)] |
| G. | 1245 California Street | [H1-36(A)] |
| H. | 1323 Mason Street | [H1-40(A)] |
| V. | Communications | |
| VI. | Director's Report | |
| VII. | Consideration of Allegations of Wrongful Evictions | |
| VIII. | Old Business | |
| A. | Proposed Regulations on Eviction Procedures under
Ordinance Section 37.9(a)(13) | |
| B. | Letter to City Attorney regarding Crane Hotel lawsuit | |
| C. | Investigation/hearing procedures for wrongful evictions | |
| IX. | New Business | |
| X. | Appeal Hearings | |
| 6:00 | A. 232-34 17th Avenue | [H1-26(A)] Accepted 9/30/86 |
| 6:30 | B. 252 Collingwood | [H1-33(A)] Accepted 10/7/86 |
| 7:00 | C. 655 Kansas Street #407 | [H1-45(R)] Accepted 9/30/86 |
| XI. | Calendar Items | |
| XII. | Remarks from the Public | |
| XIII. | Adjournment | |
- 0977A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 28, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Armstrong; Carrico; Curran;
Marshall; Waller.

Commissioners not Present: Alviar; Chinchilla; How; Payne.
Staff Present: Hernandez; Wolf.

Commissioner Chan appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of October 21, 1986, as written. (Curran/Armstrong: 4-0)

IV. Consideration of Appeals

A. 1390 Market Street [H1-48(R) through H1-83(R)]
(Continued from October 21, 1986)

Thirty-five tenants appeal the hearing officer's decision granting rent increases due to increased operating expenses for 272 units at this property. The tenants specifically object to the allocation of insurance costs based on square footage.

MSC: To accept this appeal and schedule a Board hearing limited to the issue of allocation of insurance costs. (Curran/Marshall: 3-1; Carrico dissenting.)

B. 3309 - 21st Street [H1-34(A)]

Four tenants petitioned regarding the landlord's alleged failure to repair and decreased housing services. The failure to repair issue was rendered moot due to the lack of a pending rent increase, but two tenants received an award for the removal of a working garbage chute. On appeal, the landlord disputes the time periods for the award granted by the hearing officer.

MSC: To remand this case to the same hearing officer for a possible technical correction regarding the correct dates for the award for the garbage chute. (Carrico/Curran: 4-0)

C. 324 Brazil Street [H1-38(A)]

The tenant petitioned regarding the landlord's failure to repair, decreased housing services, and illegal rent increases. The hearing officer disallowed any rent increase until repairs are performed; granted an award due to lack of hot water and maintenance; and refunded payment of a rent increase prior to the one-year anniversary date. A proposed rent increase based on an alleged "agreement" between the parties entered into to set aside a notice to vacate for the landlord's brother, was also declared null and void. On appeal, the landlord maintains that the tenant is paying less rent than would have been allowed under the Ordinance; that the award is "exorbitant"; that the lack of hot water is due to tenant's failure to pay the bills; that the time period for decreased maintenance is incorrect; and that the tenant's allowance of unauthorized sub-tenants has caused excessive wear and tear to the unit.

MSC: To deny this appeal. (Carrico/Marshall: 5-0)

D. 1016 Valencia Street [H1-40(A)]

The tenant petitioned regarding several alleged decreased housing services. The hearing officer granted an award only for a faulty front door lock, which requires tenant to place padlocks on the apartment's inner doors for security. On appeal, the landlords maintain that they were unaware of the problem prior to the hearing; that the locks are in good working order; and that the need for padlocks is due to tenants subletting the rooms to other parties.

MSC: To remand this case to the same hearing officer on the issue of the locks. (Chan/Carrico: 5-0)

E. 141 Blake Street [H1-88(R)]

The tenant petitioned regarding the landlord's alleged failure to repair, decreased housing services, and the assertion that she is paying for part of another unit's hot water as there are only two water heaters for three apartments. The hearing officer denied the tenant's petition in all respects due to there being no pending rent increase, the fact that the conditions complained of had existed since the inception of the tenancy, and the fact that the Rent Board has no jurisdiction over the alleged theft of utilities.

MSC: To remand this case to the same hearing officer to find that the Rent Board has jurisdiction over this matter and find an equitable way to reimburse the tenant for the hot water portion of the gas bill.
(Carrico/Curran: 5-0)

F. 3666 - 19th Street [H1-35(A)]

The tenant petitioned regarding a proposed rent increase in excess of the guidelines and certain repair problems. The tenant had been a subtenant of a previous lessee, who has since vacated the unit. The landlord knew of the tenant's presence, but did not accept rent from 0984A

him directly, and considered him a new tenant when the original lessee vacated. The hearing officer found that vacancy decontrol did not apply as a tenancy at sufferance had been established, and the repair problems were moot as the proposed rent increase was otherwise null and void.

MSC: To deny this appeal. (Chan/Curran: 5-0)

G. 1245 California Street [H1-36(A)]

The landlord petitioned for rent increases due to alleged increased operating expenses and capital improvements performed. Certain capital improvement pass-throughs were granted, but an operating expense increase was denied due to the landlord's failure to meet the requisite burden of proof. On appeal, the landlord maintains that the hearing officer exhibited bias; refused to consider all evidence submitted, including a prior decision of this Board; and set an impossible standard for appeal through a lack of specificity as to which items were disallowed.

MSC: To deny this appeal without prejudice to the filing of another petition. (Curran/Chan: 5-0)

H. 1323 Mason Street [H1-40(A)]

The landlord petitioned for rent increases due to alleged increases in operating expenses. The hearing officer denied the application due to landlord's failure to serve opposing counsel with additional documentation, in order for them to review and respond, as had been agreed upon at the hearing. The hearing officer also suggested that allegations of necessary repairs raised by the tenants could further serve as bases for denial of the requested increases. On appeal, the landlord maintains that he responded adequately to the hearing officer's instructions; that the tenants' habitability complaints were neither substantiated or admissible; and that the hearing officer's decision exhibited, non-objectivity and inaccuracies.

MSC: To remand this case to a new hearing officer for a new hearing. (Carrico/Curran: 5-0)

IV. Appeal Hearings

A. 232-34 - 17th Avenue [H1-26(A)]
(Accepted on September 30, 1986)

The landlord filed an application for certification of capital improvements, which was granted by the hearing officer in the decision; however, the hearing officer also ordered refunds to two tenants in appearance at the hearing due to their having paid increases in excess of the allowable 7% in 1982. Since the issuance of the hearing officer's decision, two additional tenants in the building have filed petitions for refund of amounts likewise overpaid since 1982.

On appeal, the landlord argued that only the amounts paid in excess of the guideline amount should be refunded, as it was inequitable to render the entire increase null and void for four years.

The landlord appeared at the appeal hearing with his attorney; the two affected tenants appeared and represented themselves. The hearing commenced at 6:15 p.m. and ended at 6:50 p.m. Upon urging by the Board members, the parties entered into a tentative settlement, contingent on the approval of the two other petitioning tenants not a party to this action. It was the consensus of the Board to continue consideration of this case to the November 18th Board meeting to allow the parties to finalize their agreement.

B. 252 Collingwood [H1-33(A)]
(Accepted on October 7, 1986)

The landlord appealed the determination of the hearing officer involving a four-bedroom house with multiple tenant occupants. The tenant at issue had moved into the building in January 1985, with a shared rent of \$950.00. The two other tenants vacated and were replaced in August 1985, with a \$250 monthly increase. These two tenants also vacated and were replaced, with a \$200 monthly rent increase imposed, effective June 1986.

The hearing officer ruled that both increases were null and void, as they were above the annual allowed amount for apartments with continuing tenancies; since the subject tenant remained during this period, the unit was not decontrolled as she was an original tenant. On appeal, the landlord argued that this tenant should not be protected since the owner has no lease with her, that she had been asked by the other tenants to leave, and that she had not objected to paying the \$1,200 for nearly a year.

The hearing before the Board was scheduled for 6:30 p.m. As there was no appearance by the tenant as of 7:00 p.m., the Executive Director tried to contact her with no success. The hearing began at 7:00 p.m. with testimony from the landlady only, and ended at 7:20 p.m.

After evaluating the testimony and evidence, the Commissioners voted as follows:

MSC: To reverse the decision of the Hearing Officer and find the increase to \$1,200.00 as of August 15, 1985 valid; and uphold the hearing officer's determination that the proposed increase to \$1,400.00 as of June 15, 1986 is null and void. (Carrico/Curran: 5-0)

C. 655 Kansas Street #407 [H1-45(R)]
(Accepted on September 30, 1986)

The tenant appealed the hearing officer's decision on remand, which held that a rent increase for an alleged additional occupant could not be dealt with as the tenant had failed to appeal the original decision in this case. The landlord appeared at the appeal hearing with his attorney; the tenants appeared and represented themselves. The hearing commenced at 7:30 p.m. and ended at 8:00 p.m.

The issue on appeal was the imposition of a \$50.00 rent increase due to the presence of an alleged additional tenant in the unit, where none was allowed according to the rental agreement then in effect. The appealing tenant produced evidence to show that he had resided in the unit with his wife, the acknowledged tenant, since the inception of the tenancy.

After evaluating the testimony and evidence, the Commissioners voted as follows:

MSC: To grant the tenant's appeal and order a refund of the illegal \$50 rent increase for a period of twelve months. (Chan/Marshall: 5-0)

VI. Communications

The Board received the following communications:

- A. Withdrawal of the tenant's appeal regarding the case at 642 Alvarado Street.
- B. Letter to City Attorney Louise Renne from the Board, commending Deputy City Attorney Kathryn Pennypacker for her excellent work on the Crane Hotel case.
- C. Letter from landlord Wade Hampton regarding proper procedures for disbursement of an award in the Rent Board case at 153 Noe Street.
- D. Copy of letter to Supervisor Harry Britt from two tenants concerned about the unresponsiveness of Good Earth Realty.

VII. Director's Report

In lieu of a Director's Report, Vice President Marshall wished the Executive Director a Happy Birthday on behalf of the Board.

VIII. Old Business

The Board briefly discussed the revised proposed Regulations on Eviction Procedures under Ordinance Section 37.9(a)(13) and passed the following motion:

MSC: To adopt the proposed Regulations on Eviction Procedures under Ordinance Section 37.9(a)(13). (Curran/Marshall: 4-1, Carrico dissenting.)

IX. Calendar Items

- A. November 4, 1986 - No meeting: Election Day
- B. November 11, 1986 - No meeting: Veterans Day

C. November 18, 1986

6 Appeal Considerations

2 Requests for Eviction Reconsideration

Appeal Hearing:

6:00 - 2090 Broadway [H001-19(R) through 23(R)]

(Accepted 9/30/86; postponed from 10/21/86.)

D. November 25, 1986

Appeal Hearing:

6:00 - 1390 Market (Fox Plaza) [H1-48(R) through H1-83(R)]

(Accepted 10/28/86)

X. Adjournment

Vice President Marshall adjourned the meeting at 8:39 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 18, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158 *****

DOCUMENTS DEPT.

I.

Call to Order

NOV 30 1986

President Payne called the meeting to order at 5:34 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II.

Roll Call

Commissioners Present: Alviar; Chinchilla; How;

Marshall; Payne; Waller.

Commissioners Not Present: Carrico; Curran.

Staff Present: Hernandez; Wicks.

Commissioners Armstrong and Chan appeared on the record at 5:47 p.m.
Commissioner Chan went off the record at 6:59 p.m., and Commissioner Waller went off the record at 7:58 p.m.

III. Executive Session

The Commissioners went into Executive Session at 5:36 p.m. pursuant to Government Code Section 54956.9(a) to discuss possible litigation matters with Deputy City Attorney Kathryn Pennypacker. The Board came back on the record at 5:47 p.m.

IV. Approval of the Minutes

MSC: To approve the Minutes of October 28, 1986, as written.
(Alviar/Chinchilla: 5-0)

V. Consideration of AppealsA. 3314-16th Street [H001-37(A)]

The landlord appealed the Hearing Officer's decision disallowing certification of substantial rehabilitation or, in the alternative, of capital improvements, following repair of fire damage incurred under a previous ownership. Upon the completion of four Rent Board hearings, the Hearing Officer disallowed any certification of improvements for the following reasons: no documentation was submitted concerning insurance compensation received by the previous owner, thus failing to establish either actual purchase price or renovation costs compensated by insurance; and the Hearing Officer and independent estimator found inconsistencies and fatal omissions in the documentation, including the inclusion of bills for other properties.

On appeal the landlord maintained that the level of the burden of proof demanded by the Hearing Officer was impossible to meet; that the owner's request to cross-examine the estimator was denied; and that the Hearing Officer allowed unsupported hearsay to be admitted by the remaining long-term tenant.

MSC: To affirm the Hearing Officer's decision and deny the appeal. (Chinchilla/Alviar: 4-1; Commissioner Payne dissenting.)

B. 1 Bache Street [H001-41(A)]

The landlord appealed the Hearing Officer's ruling that refunded to the tenant improper rent increases assessed since January 1983. All increases given since the inception of the Rent Ordinance were above the guideline amount. On appeal the landlord complained that the Rent Board had informed him in writing that the increase in July 1985 was illegal and therefore null and void, but that he had expected a hearing would be held. When he did not hear further, he assumed the increase was valid, especially since the tenant paid it. He further insisted that he should be entitled to additional monies because of the desirable qualities of the neighborhood and subject property. In rebuttal, the tenant indicated that he had continued to pay the improper increase under threat of eviction.

MSC: To affirm the Hearing Officer's decision and deny the appeal. (Chinchilla/Marshall: 5-0)

C. 860 Sutter St. #215 [H001-89(R)]

One tenant appealed the Hearing Officer's ruling pursuant to a compliance hearing, during which it was determined that the owner had made the repairs for which a rent increase had been previously denied. The day before the consideration was scheduled, the tenant wrote the Board to indicate that repairs had been made and that she was happy with the work performed. No formal written request for withdrawal of the appeal was received.

MSC: To deny the appeal and affirm the Hearing Officer's decision. (Chinchilla/Marshall: 5-0)

D. 1299 Lombard St. [H001-90(R)]

A tenant appealed the determination of the Hearing Officer allowing a new owner to bank an increase to which a previous landlord was entitled. The previous owner had imposed an annual increase in July 1985, which the tenants challenged on the basis of failure to maintain and repair. Just before the 1985 hearing, the owner rescinded the increase notices and refunded all monies paid. Because no increases were pending, the Hearing Officer dismissed the cases. When the new owner attempted to impose the banked 1985 increase, the tenant petitioned for denial. On appeal the appellant insists that the 1985 increase should not be allowed since it had actually been imposed--even though later withdrawn--and banking only pertains to periods when the landlord "refrained" from imposing the annual increase.

MSC: To deny the appeal and affirm the Hearing Officer's decision. (Marshall/Chinchilla: 5-0)

E. 3360 Octavia [H001-91(R) through H001-95(R)]

Five tenants appealed the decision of the Hearing Officer on remand. The landlord's petition had originally been denied for failure to carry his burden of proof. On remand, the Hearing Officer determined that the landlord had furnished sufficient documentation, and the increase was granted. On appeal from the remand decision, the tenants argued that in this instance allowing the increase--based solely on the costs of purchasing the property--would violate the spirit of the law, since the owner had expressed his intent to resell the building a short time after purchasing it. The tenants argue that allowing such increases when resale is intended, merely increases the marketability and profit for the seller, rather than providing a new, long-term owner with reimbursement for on-going expenses.

MSC: To deny the appeal and affirm the Hearing Officer's decision. (Chinchilla/Alviar: 5-0)

F. 477 Burnett Ave. #1 [H001-42(A)]

A Hearing Officer's ruling granting a 5% decrease in service award for loss of storage space was appealed by the landlord. The owner and the tenants had agreed that the tenants could build storage shelves near their garage space. The owner's insurance company insisted on the removal of such items. On appeal the landlord maintained that the storage space actually in dispute is an area near the furnace, which the subject tenants appropriated without the permission or approval of the owner. The owner believes that no award should be given since there was never an understanding that the tenants could use the furnace area and no consideration was paid for this use.

MSC: To accept the appeal and remand the case to the same hearing officer to determine how many storage spaces are being used and which space is at issue.
(Chinchilla/Alviar: 5-0)

VII. Communications

- A. Parties for 1299 Lombard Street and 1988 Fell Street submitted additional written appeal statements.
- B. A tenant at 1600 Clement St. wrote to express concerns about the management practices of the building's owners.
- C. A memo from Supervisor Walker concerning budget review was distributed.
- D. The appeal decisions for 455 Eddy and 150 Carl were approved and signed.

- . E. The Commissioners were given a copy of a letter to Eviction Unit Advisors Doris Charles and Pedro Ruiz, thanking them for their efforts in investigating an eviction matter.
- F. The Board signed a letter concerning distribution of an award granted tenants in case G94-07(T).
- G. The parties for 234-17th Avenue submitted a copy of the settlement document signed by the involved parties.

VIII. Appeal Hearing

2090 Broadway [H001-19(R) and H001-23(R) - 41(R)]

A hearing was scheduled for 6:00 p.m. and began on the record at 6:33 p.m. Appearing were appealing tenant Margueritte Liebermann, representing herself; Anne Tresseder, attorney for the other appealing tenants; owner's representative Diana Hall; and landlord's attorney Steven Rosenthal.

Twenty tenants had appealed the hearing officer's decision granting a landlord's petition for operating and maintenance increases. On appeal, the tenants had protested that the landlord was barred from obtaining this increase since a prior petition for such increase was denied, the evidence did not substantiate an increase, and the tenants had raised a valid defense of failure to repair and maintain.

At the hearing before the Commissioners, the tenants argued that the landlord should not be granted an increase since this award would be based almost exclusively on increased debt service, a known, constant expense with no unexpected increases. They also felt that the new owner should not benefit by using the previous owner's expense figures, since he had no outstanding debt service. Alternatively, the tenants maintained that they had presented extensive evidence of failure to maintain and repair, thus establishing a defense to the increase, but that the Hearing Officer had improperly excluded much of their evidence and testimony. Tenant Liebermann specifically protested failure of the Hearing Officer to rule in her favor following presentation of evidence of severe leakage and resulting damage to personal property.

In rebuttal, the landlord's representative argued that the owner was entitled by law to request an increase based principally on increased debt service, whether or not the previous owner was continuing to incur this expense before resale. He further contended that all failure to repair and maintain arguments had been refuted, and that tenant Lieberman had been awarded a voluntary rent reduction by the landlord to compensate for the leakage problem.

After reviewing the testimony and evidence presented, the Commissioners voted as follows:

MSC: To remand the case to a new hearing officer, solely on the issue of failure to maintain and repair as a defense to the operating and maintenance increase. The hearing officer shall give special attention to the

following:

- a. Make specific findings on each repair allegation raised by each complaining tenant. Attention shall also be given to verifiable oral notice of repair and maintenance needs;
- b. Make specific findings on objections and rebuttal evidence offered by the landlord;
- c. Render specific conclusions on each repair allegation raised by each tenant.

(Chinchilla/Alviar: 4-1; Commissioner Payne dissenting)

IX. Director's Report

- A. Executive Director Ricardo Hernandez informed the Commissioners that the Finance Committee would hold hearings concerning personal service contracts. This may affect the procedure governing the Board's employment of Hearing Officers.
- B. The October 1986 statistics were reviewed.
- C. Mr. Hernandez reported that the request for an increase in filing fees had been passed. A public hearing will be held December 16, 1986, to deal with the necessary changes in the Rules and Regulations to reflect the fee increase.
- D. The Commissioners will henceforth be appointed for a four year term, rather than the current two year appointment.
- E. Hearing Officer Wilkinson has volunteered her house for the annual Rent Board Christmas party. December 12, 1986 was the date chosen.

X. Consideration of Allegations of Wrongful Evictions

A. Requests for Reconsideration

1. 1998 Fell Street [H1-94(E)]

It was the consensus of the Board to postpone consideration of this request to November 25, 1986, since some of the materials had not reached them.

2. 617 Jackson Street #1 [G167-53(E)]

The landlord requested a reconsideration from the Hearing Officer's recommendation from an attempted wrongful eviction. Pursuant to a first hearing--on the jurisdictional issue only--the Hearing Officer found that the property was covered by the Rent Ordinance and Rules. A second hearing was held to evaluate the eviction attempt. The property is owned by a benevolent association. The articles of the association state that the building shall consist of nine units for residences of elderly, low income persons. The subject tenant is age 82 and retired; he has resided in his unit since 1979. In July 1985 the association board of directors--whom the tenant supported--was removed. In March 0998A

and April 1986 the tenant was asked to move to another unit since the association intended to convert his room to office space; it was also stated that the use permit allowed for only eight residential units. The tenant argued that the replacement room was smaller and poorly ventilated; that no citations had issued from the City despite the categorization of the premises as a nine unit residence since 1981, and that a use permit for nine units could be easily obtained; that the landlord had not obtained a permit to remove a unit from housing use; and that the new board of directors was retaliating for the tenant's support of the previous board. The Hearing Officer found no just cause for eviction and found some support for the allegation of retaliatory eviction. It was recommended that the Commissioners consider further legal action if the eviction were pursued.

MSC: To deny the request for reconsideration and affirm the Hearing Officer's evaluation of the evidence and recommendation.
(Chinchilla/Marshall: 5-0)

B. Staff Report

The Commissioners were given the landlord's response to the letter from President Payne, in the cases at 230 Lowell Street [cases G136-14(E), 15(E)]. After review, it was the consensus of the Commissioners to hear the case.

XI. Old Business

- A. It was reported that the Board still had a sponsor for the room currently used for Commission meetings, but no sponsor has yet been found for a move to the new PUC building.
- B. The Commissioners and Staff discussed the philosophical aims and practical operation of the eviction arm of the Rent Board, with special emphasis on making the efforts as productive as possible. It was determined that certain procedures shall be put into writing and that efforts to work effectively with the District Attorney's office shall be increased.

XII. Calendar Items

November 25, 1986

11 appeal considerations
6:00-appeal hearing: 1390 Market Street [H1-48(R)-H1-83(R)]
Executive Session: 1600 Clement St.

December 2, 1986

7 appeal considerations

XII. Adjournment

President Payne adjourned the meeting at 9:00 p.m.

City and County of San Francisco



SF
R52
1
11/25/86

= Residential Rent Stabilization and
Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
November 25, 1986

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

NOV 25 1986

SAN FRANCISCO
PUBLIC LIBRARY

A.	275 Turk St. #412	[H1-96(R)]
B.	928 Haight St. #5	[H1-43(A)]
C.	1090 Hampshire St. #2	[H1-44(A)]
D.	1012-16 Masonic Ave.	[H1-45(A) & H1-97(R)]
E.	755 Arguello Blvd.	[H1-46(A)]
F.	1001 California St.	[H1-47(A)]
G.	327 Webster St.	[H1-48(A)]
H.	55 Casa Way	[H1-49(A)]
I.	3110 Clay St. #7	[H1-98(R) & H1-50(A)]
J.	3031 Fillmore St.	[H1-99(R)]
K.	1960 Fulton St.	[H1-51(A)]

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration
1998 Fell Street [H1-94(E)]
(postponed from 11/18/86)

- VIII. Old Business
- IX. New Business
- X. Appeal Hearing
- 6:00 1390 Market Street [Appeals H1-48(R) through H1-83(R)]
(accepted 9/30/86)
- XI. Executive Session 1600 Clement St.
- XII. Calendar Items
- XIII. Remarks from the Public
- XIV. Adjournment

1000A

SF 11/2/86
R53 #2

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 25, 1986 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.I. Call to Order

DEC 3 1986

President Payne called the meeting to order at 5:40 PM PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Armstrong; Curran; Marshall;
Payne; Waller.

Commissioners not Present: Alviar; Carrico; Chan; How.
Staff Present: Hernandez; O'Hearn.

Commissioner Chinchilla appeared on the record at 5:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 18, 1986 as written. (Curran/Marshall: 3-0.)

IV. Consideration of Appeals

A. 275 Turk Street [Appeal H1-96(R)]

The tenant appeals the hearing officer's decision granting his amended decrease petition as to the bathroom ceiling and denying his other decrease claims. In his appeal, he disputes the credibility of the landlord and contests the denial of his claim as to the elevator service.

MSC: To deny this appeal. (Marshall/Curran: 3-0.)

B. 928 Haight Street #5 [Appeal H1-43(A)]

The landlord claims that the hearing officer improperly allocated a PG&E passthrough due to confusion of the installation of a separate utility meter in 1985. The hearing officer denied the \$41.00 passthrough claimed by the landlord.

MSC: To deny this appeal. (Marshall/Curran: 3-0.)

C. 1090 Hampshire Street #2 [Appeal H1-44(A)]

The landlord appeals the remand decision pursuant to the landlord's appeal of the original decision on the tenant's petition. In disputing the determination that the property consists of 5 rather than 4 units, he claims that the hearing officer was biased. He also objects to a

lack of standards for removing an individual rental unit from housing use.

MSF: To deny this appeal. (Curran/Marshall: 2-1; Payne dissenting.)

Failing a majority, the Commissioners continued consideration of this appeal until after considering the remaining cases on the agenda.

MSC: To deny this appeal. (Marshall/Curran: 3-1; Payne dissenting.)

D. 1012-16 Masonic Avenue [Appeal H1-97(R) & H1-45(A)]

Both the landlord and one of the tenants appeal the hearing officer's decision on the landlord's capital improvement increase petition. The tenants of unit 2 at 1012 Masonic Ave. raise numerous issues on appeal, including insufficient notice, hearing officer bias, denial of due process and abuse of discretion.

The landlord appeals alleging improper allocation among all units of the cost of the back stairs. He also notes that although a Rent Board Commissioner represented him at the hearing, he would be willing to represent himself at a new hearing.

MSC: To accept both appeals and remand this case for a new hearing before another hearing officer.
(Marshall/Curran: 4-0.)

E. 755 Arguello Blvd. #3 [Appeal H1-46(A)]

The landlords appeal the hearing officer's decision granting a \$200.00 per month decrease based on the loss of security due to the requirement that the tenant leave his front door unlocked at all times. The landlords claim, among other things, that the tenant merely occupies a bedroom within an apartment and that the bedroom was rented without a lock.

Finding that they had not received the second page of the appeal, the Commissioners postponed their consideration to their next meeting.

F. 1001 California St. [Appeal H1-47(A)]

The landlord appeals the hearing officer's decision pursuant to court ordered remand resulting from the landlord's appeal of the Board's 1982 decision on the landlord's increase petition. The landlord argues that his "investment base" was not determined in accordance with the court's decision and that standards of fair rate of return were not properly applied. He also contends that comments to the hearing officer's proposed findings of fact were untimely submitted by one of the tenants and thus improperly considered.

MSC: To deny this appeal. (Chinchilla/Curran: 4-0.)

I. G. 327 Webster St.

[Appeal H1-48(A)]

The landlord submitted an appeal 29 days after the mailing of the decision and contends that he did not receive notice of the hearing. He claims that as one of the partners in the partnership which currently owns the property, he and another partner are 50% owner-occupiers of this 3-unit building which is exempt from the Rent Ordinance. The tenants respond that the partnership has only an equitable interest in the property, rather than a fee interest, since legal title was not transferred.

MSC: To accept the appeal and remand the case for a new hearing to determine the issue of ownership, as well as the issues raised by the tenants' petition.
(Chinchilla/Payne: 4-0.)

H. 55 Casa Way

[Appeal H1-48(A)]

The landlord appeals the hearing officer's denial of his increase petition based on increased operating expenses. He disagrees with the determination that he failed to adequately document the debt service because at the hearing he orally estimated what portion of the loan paid off the balloon payment.

MSC: To deny the appeal without prejudice to the filing of a new petition. (Chinchilla/Marshall: 3-1; Payne dissenting.)

I. 3110 Clay Street #7

[Appeal H1-98(R) & H1-50(A)]

Both the landlord and the tenants appeal the decision granting a \$871.00 per month capital improvement increase. The tenants claim that they did not receive notice of the hearing which they would have attended in order to object to many of the costs as unnecessary. The landlord contends that the increase should be \$1,319.19 based on the values submitted by the Board's estimator.

MSC: To accept both appeals and remand the case for a new hearing to determine the validity of the rent increase notice, as well as the issues raised by the landlord's petition. (Marshall/Curran: 4-0.)

J. 3031 Fillmore St.

[Appeal H1-99(R)]

The tenants appeal the decision granting a \$30.59 per month capital improvement increase on the following grounds: (1) some of the claimed work was not performed; (2) the work was not properly apportioned; (3) much of the work was necessitated by the landlord's deferred maintenance; and (4) the hearing officer improperly refused to consider the tenant's evidence.

MSF: To accept the appeal and remand the case for a new hearing before another hearing officer to determine which work benefits the unit. (Chinchilla/Marshall: 2-2; Curran and Payne dissenting.)

MSC: To accept the appeal and remand the case for a new hearing before another hearing officer in order to recalculate the increase and make specific findings on the allocation of the work. (Curran/Marshall: 4-0.)

K. 1960 Fulton Street [Appeal H1-51(A)]

The hearing officer denied the landlords' increase petition because they had not submitted requested documentation within 8 days following the 2-week period after the hearing when the record was originally left open (until October 7, 1986). The hearing officer considered late documentation received on October 15, 1986, but apparently did not receive a letter signed by the former owner and received by the Board on October 23, 1986 indicating the lack of costs for advertising, pest control, maintenance and management.

MSC: To deny the appeal. (Chinchilla/Curran: 3-1; Payne dissenting.)

V. Appeal Hearing

1390 Market Street [Appeals H1-48(R) through H1-83(R)]

On October 28, 1986 the Board accepted the appeals of 35 tenants who contested the hearing officer's decision granting rent increases for 272 units due to increased operating expenses. The Board scheduled this appeal hearing based on the tenants' objections to the allocation of insurance costs based on square footage. The appeal hearing commenced at 6:30 p.m. Paul Wartelle appeared as attorney for the tenants, Barbara Herzog appeared as attorney for the landlord, and Gerald Cahill and Mark Dawson appeared as witnesses for the landlord.

The property consists of five commercial buildings and one mixed-use residential building with 12 of 29 floors used for commercial space. The tenants' attorney noted the minimal documentary evidence concerning the insurance costs, including the lack of insurance policies. The landlord's witnesses explained the five different types of insurance for the property and the method of allocating the costs on the basis of square footage, which is the basis for the rate of insurance.

The landlord also proposed another method of allocation based on the primary liability costs as assessed by the policies for residential (at \$2.59 per 100 square feet) and commercial space (at \$1.85 per 100 square feet). The landlord also noted that at the original hearing, the hearing officer declined the landlord's offer to submit the 30 different policies involved for the property.

At the conclusion of the hearing, the tenants' attorney requested that the Board remand the matter back to a hearing officer in order to determine the insurance policy and classification rate. The landlord's attorney objected to the proposed remand and argued that the Board should decide the issue, particularly for this property which has a unique size and type of construction. The hearing terminated at 8:35 p.m. Following discussion among the Commissioners, the Board rendered the following decision:

MSC: To affirm the hearing officer's decision, with the statement that although square footage is one method of allocation of insurance costs, it is not the only one which could be used for mixed use property.
(Curran/Chinchilla: 5-0.)

VI. Communications

- A. The Board received a letter from the former tenant of 252 Collingwood who failed to appear at the October 28, 1986 Board hearing on her landlord's appeal [Hl-33(A)]. She stated that she did not receive notice of the hearing because she moved September 1, 1986, but that she did submit a change of address card to the Board. The Board rendered its final decision following the October 28, 1986 hearing.
- B. The Board received a letter from Randy Shaw of the Tenderloin Housing Clinic regarding the issue of expert testimony by Rent Board Commissioners in a judicial proceeding.

VI. Executive Session

1600 Clement Street

Pursuant to Government Code Section 54956.9(c), the Board discussed possible litigation.

VII. Director's Report

The Executive Director reported on the agency's response to the Board of Supervisors Finance Committee concerning upcoming budget issues. On December 3rd, the Committee will review this year's budget.

Three staff members will attend a meeting on December 8th to discuss the ramifications of the transfer of inside telephone wiring charges to customers.

VIII. Consideration of Allegation of Wrongful Eviction

1998 Fell Street [Hl-94(E)]

Last week, the Board continued its review of the landlord's request for reconsideration of this case due to non-receipt of all of the documents. The landlord objects to the hearing officer's evaluation that the eviction appears wrongful because the landlord is not acting in good faith in seeking possession on the ground of owner occupancy. Both the hearing officer and eviction unit supervisor recommended that the Board take no further action in this matter since it is pending before the court.

MSC: To deny the request for reconsideration.
(Chinchilla/Curran: 4-0.)

IX. New Business

President Payne requested that the Board schedule its January 20, 1987 meeting in the Castro neighborhood for a community round table discussion on evictions. Both the Human Rights Commission and the Shanti Project will be invited.

X. Calendar Items

December 2, 1986

8 appeal considerations (including 1 postponed from this week)
5 considerations of allegations of wrongful evictions

December 9, 1986

5 appeal considerations
1 consideration of allegation of wrongful eviction

XI. Adjournment

President Payne adjourned the meeting at 9:30 p.m.



SF

R52

12/2/86

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

December 2, 1986

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

DEC 3 1986

III. Approval of the Minutes

SAN FRANCISCO
PUBLIC LIBRARY

IV. Consideration of Appeals

- A. 755 Arguello Blvd. #3 [H1-46(A)]
(Continued from 11/25/86)
- B. 644 Fillmore St. [H1-52(A)]
- C. 3223 Mission St. [H1-53(A)]
- D. 557 26th Ave. [H1-54(A)]
- E. 3440 Mission St. [H1-55(A)]
- F. 860 Sutter St. #405 [H1-56(A)]
- G. 909 Geary St. [H2-01(R)]
- H. 698 Bush St. [H1-57(A)]
units 402, 406 & 407

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

- A. 330 Montgomery Blvd. #3 [H1-93(E)]
- B. 236 Granada [G167-97(E)]
- C. 1125 1/2 Alabama [G168-60(E)]
- D. 135 Cole [G169-20(E)]
- E. 195 Ord [H2-9(E) & H2-12(E)]

VIII. Old Business

IX. New Business

X. Calendar Items

XI. Remarks from the Public

XII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 2, 1986 at 5:30 p.m. at the State Building, 350 McAllister St #1158

I. Call to Order

Vice-President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Chan; Chinchilla;
Marshall; Waller

Commissioners not Present: Alviar; Armstrong; Payne

Staff Present: Hernandez; Wicks; Wolf

Commissioner How appeared on the record at 5:37 p.m.

Commissioner Curran appeared at 5:40 p.m. and went off the record at 7:05 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 25, 1986 as written (Chinchilla/Marshall: 3-0).

IV. Consideration of Appeals

A. 755 Arguello Blvd., #3 [H001-46(A)]
(continued from November 25, 1986)

The landlords appeal the hearing officer's decision granting a \$200.00 per month decrease based on the loss of security due to the requirement that the tenant leave his front door unlocked at all times. The landlords claim, among things, that the tenant merely occupies a bedroom within an apartment and that the bedroom was rented without a lock.

MSC: To remand this case to a new hearing officer to review the decreased services award due to the consensus of the Board that the award was excessive; and to make Findings regarding the degree of security in the unit and the building. (Carrico/Chinchilla: 4-0)

B. 644 Fillmore Street [H001-52(A)]

The landlord appeals the hearing officer's decision finding

an attempted wrongful eviction and granting a rent reduction due to severe structural defects in the building. The landlord maintains that the building is owner-occupied exempt; the hearing officer found that the landlord had established documentary residency, but had failed to prove continual residency at the unit. The hearing officer also found that, as the tenant had lived in the unit for eleven years and the landlord's authorized agent had accepted rent from him, he could not be evicted as an unauthorized subtenant.

MSC: To postpone consideration of this appeal for one week in order to review additional documentation submitted by the parties.
(Curran/Chinchilla: 4-0).

C. 3233 Mission Street [H001-53(A)]

The landlord appeals the hearing officer's decision granting a rent reduction due to various decreased housing services, as the landlord claims that some of the defects were created by tenant's negligence and/or that she hadn't received notice of the problems prior to the hearing. The hearing officer also found an attempted wrongful eviction, as the landlord mailed a capital improvement petition and notice of rent increase on the same day, which rendered the notice null and void; and served a 3-day notice to pay rent or quit upon tenant's failure to pay the capital improvement increase. The landlord appeals this determination and asks for a waiver of the requirements of Section 7.10(c) of the Rules & Regulations, asserting that a good faith effort to comply had been made.

MSC: To remand this case to a new hearing officer for reconsideration of the decreased services award in light of the Board's observation that the award should begin upon notice to the landlord, including a reasonable period of time to effectuate the repairs.
(Curran/Chinchilla: 4-0)

D. 551 26th Avenue [H001-54(A)]

The landlord appeals the hearing officer's decision declaring a rent increase null and void. The tenant had previously performed managerial services. Upon termination of his employment, the landlord maintains that a new tenancy was established. Additionally, landlord justifies the requested increase due to the presence of three individuals in the unit, when originally there were two. However, the number of occupants in the unit has varied throughout the course of the tenancy, always with the knowledge and consent of the landlord.

MSC: To deny this appeal (Chinchilla/Carrian: 4-0).

E. 3440 Mission Street [H001-55(A)]

The landlord appeals the decision of the hearing officer granting a large retroactive rent reduction due to severe habitability problems in the unit. The issue of an eviction based on owner-occupancy was addressed at the hearing, but the hearing officer found no evidence of bad faith. The basis for landlord's appeal is that she recently purchased the property, and feels that she should not be responsible for a rent refund for a period of time she was not collecting rent.

MSC: To accept this case for a hearing before the Board (Carrico/Curran: 4-0).

F. 860 Sutter Street #405 [H001-56(A)]

The landlord appeals the decision of the hearing officer setting aside a proposed rent increase from \$187.25 to \$720.00 as null and void. The landlord had received a permit to convert residential units at a hotel he owned to tourist use, under an agreement which included relocation of tenants to comparable existing units at a rent equal to that which the tenant had been paying. The landlord contends that he and the tenant had an agreement that his subsidy of the rent differential was to expire after one year, although the hearing officer found no such termination date existed, and inquires as to whether a new owner would be bound by the terms of the agreement.

MSC: To deny this appeal (Chinchilla/Curran: 4-0).

G. 909 Geary Street [H002-01(R)]

The tenant appeals the dismissal of his decrease in services petition due to his failure to appear at the properly noticed hearing. The tenant maintains that he could not appear due to the fact that he was in a state hospital on the date of the hearing.

MSC: To deny this appeal (Chinchilla/Curran: 2-2; Carrico/Marshall dissenting).

MSC: To remand this case to a new hearing officer for a new hearing. (Carrico/Marshall: 2-2; Chinchilla/Curran dissenting)

It was the consensus of the Board to continue consideration of this matter for one week in order for staff to provide information regarding previous petitions filed by the

appellant; and to attempt to obtain proof that the appellant had been in the hospital as he maintained.

H. 698 Bush Street, #402, 406 and 407 [H001-57(A)]

The landlord appeals the decision of the hearing officer granting rent reductions due to decreased housing services for three tenants. The landlord maintains that the tenants failed to meet their burden of proof; that no State or local housing codes have been violated as the services are not substantial; that service contracts exist for the services in question; and that the repair problems are exceptionally minor and/or are contributed to by tenants.

As there are two additional outstanding decisions regarding this property that will be appealed within the coming week, it was the consensus of the Board to put over consideration of this matter in order to consolidate all five cases.

V. Consideration of Allegations of Wrongful Eviction

1. 330 Monterey Blvd., #3 [H001-93(E)]

The subject tenants were the niece and nephew of the owner. In April 1986 the landlord asked the tenants to sign a rental agreement (none had existed before). The tenants questioned the fact that the agreement stated they would pay \$575.00 and were told that the building was up for sale and that the higher amount would be their rent after purchase. Upon tendering their rent of \$275.00 to the new owner, it was returned with a request for the \$575.00 stated in the rental agreement. A three-day notice issued. Upon investigation, it appeared the uncle had told the prospective buyer that \$575.00 was the correct rent, and that the uncle had made up the \$300.00 difference for several months while the property was in escrow. The hearing officer ruled that the rent increase was null and void and that no cause existed for the eviction. The new owner was informed that his remedy was with the previous owner.

RECOMMENDATION: To monitor the situation and write the current owner, cautioning him against proceeding with either the rent increase or eviction.

2. 236 Granada Avenue [G167-97(E)]

The subject property is a cottage behind a large house on the same lot. The tenant originally took up residence in July 1985 rent-free in return for making numerous repairs on the large house and keeping an eye on the property. In November 1986 it was agreed the tenant could remain at a

rent of \$300.00. In late February 1986 the tenant received notice that the property had been sold and the rent would increase to \$600.00 (it appears the transfer was from one family member to another). The tenant did not pay the increase, and a three-day notice was later issued, covering a four-month period. The hearing officer found that the cottage, because of physical separation, is not exempt from the Ordinance, that the rent increase was null and void, and that the tenant was current in all rent payments with the exception of \$100.00 in March 1986. The landlord had earlier been informed of the illegality of the 100% rent increase by the Rent Board and did not respond to Rent Board eviction inquiries, despite several requests for information over a three month period; and they continued to demand the increase despite several communications from the Rent Board informing them of the illegality of the increase.

RECOMMENDATION: To consider further legal action.

3. 1125-1/2 Alabama Street [H168-60(E)]

Tenant Watts moved into the apartment with tenant Martinez at the inception of the 1984 tenancy. Only Martinez signed the lease, but all parties were aware that Watts would be a co-tenant. Clause 3 gave the owner the right to restrict the occupants to certain named parties, but this section was left blank, with no name filled in. Clause 24 in a lease renewed in June 1985 restricts the occupants to 2 persons and allows the owner to request an additional \$50.00 for any additional occupants beyond 2. The tenant was served eviction notices at different times and for different reasons. At the hearing the owner could not clarify whether the tenant was being evicted as an unauthorized tenant or because of violation of the number of tenants; she stated that she simply did not want tenant Watts as a tenant. The hearing officer found the eviction wrongful because it was clear Ms. Watts was an approved tenant, and the owner's testimony suggested that even if the breach were cured, she would proceed with the eviction.

RECOMMENDATION: To monitor the case and write the owner advising her to refrain from proceeding with the eviction attempt until the reason for the termination is clarified and it is certain that she is proceeding on proper legal grounds.

4. 135 Cole Street [G168-20(E)]

Tenant Perkins moved into the 10-room apartment in September 1984 with other tenants who have since been replaced; four persons were listed on the initial written agreement. The outstanding rental agreement was renewed in March 1985 and

signed only by tenant Perkins. The agreement limits the tenancy to 1 adult and states that guests can stay only 15 days; but all parties agreed that more than one person could occupy the unit. The landlord had generally allowed informal substitution of tenants and had accepted individual rent payments from each current tenant. In March 1986 the owner sent a written complaint about the number of tenants living in the unit, noting that four was the agreed-upon maximum, and that she had observed occupancy of several unauthorized persons. The tenants maintained that they occasionally had guests for a day or two. In April 1986 the owner tendered a new lease with the following terms: a 50% rent increase; 2 new roommates must be obtained, for a required total occupancy of 6; and guests remaining more than one day would have to obtain approval of the owner to remain. The tenant refused to sign the lease because of the material changes. The hearing officer found the eviction attempt wrongful in that all tenants were clearly accepted, practice and previous agreements allowed four persons, and the proposed new agreement included material changes to which the tenants need not agree.

RECOMMENDATION: To write the owner cautioning against proceeding with the eviction for the reasons stated above; to continue to monitor the case.

5. 195 Ord Street/199 Ord Street [H002-09(E) & H002-13(E)]

The owner attempted to prove that the property is exempt since he began residence in February 1986. Considerable evidence and testimony was presented to establish the date full-time occupancy began by the landlord. The tenants agreed that he appeared to reside in the building as of July 1986. The hearing officer felt the owner was remodeling with the intent to reside in the property but that he had not begun to do so until July 1986. The August rent increases of approximately 70%, and resulting three-day notice, were improper.

RECOMMENDATION: To write a stern cautionary letter to the owner advising him that the property will not be exempt until six months after continual residence has been established, and that the subject rent increase and eviction attempts are therefore illegal at this time.

MSC: To accept staff recommendations.
(Curran/Carrico: 4-0)

VI. Director's Report

The Executive Director discussed the supplemental Budget appropriation request process and noted the problem of the Rent Board having more business than ever in a year of projected budget deficits.

VII. Old Business

A. No sponsor has been found as of yet to enable a move to the new State Building.

B. A notice of public hearing for December 16, 1986 regarding increased filing fees has been sent out.

VIII. New Business

A. Commissioner Curran authored a resolution from the Board congratulating Commissioner Chinchilla on passing the Bar examination.

B. Commissioner Carrico inquired as to whether it would be all right for a Board meeting to be taped for a TV program regarding rent control on Cable Channel 6. The Commissioners assented, as long as the consent of any parties present would be obtained.

IX. Calendar Items

A. December 9, 1986

6 appeal considerations (including one continued from December 2, 1986).
1 eviction reconsideration.

B. December 16, 1986

4 appeal considerations.
1 appeal hearing: 3440 Mission St. [H001-55(A)].
Public hearing: Rent Board fee changes.

X. Adjournment

Vice-President Marshall adjourned the meeting at 7:15 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

December 9, 1986

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

DEC 9 1986

SAN FRANCISCO
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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	839 Broderick Street, #4	[H002-02(R)]
B.	866 Post Street	[H001-58(A)]
C.	530 Hickory Street	[H001-59(A)]
D.	2380 California St.	[G168-37(E)]
	Eviction reconsideration	
E.	516 Ellis Street	[H001-60(A)]
F.	900 Chestnut Street	[H002-03(R)]
G.	644 Fillmore Street	[H001-52(A)]

V. Communications

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

A. Hearings

VIII. Old Business

IX. New Business

X. Appeal Hearing

1.

2.

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

1019A

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday December 9, 1986, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

***** DOCUMENTS DEP. 1. *****

52
2
1/86

I. Call to Order

DEC 15 1986

SAN FRANCISCO

***** DOCUMENTS DEP. 1. *****

Vice-President Marshall called the meeting to order at 5:32 p.m.

III. Roll Call

Commissioners Present: Alviar; Armstrong; Carrico; Chan;
Marshall.
Commissioners not Present: Chinchilla; How; Payne.
Staff Present: O'Hearn; Wicks.

Commissioner Curran appeared on the record at 5:37 p.m.
Commissioner Waller appeared on the record at 5:57 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 2, 1986, with the spelling of Commissioner Marshall's name corrected on page 1. (Alviar/Chan: 5-0)

IV. Consideration of Appeals

A. 644 Fillmore Street [H001-52(A)]
(Continued from 12/2/86 and summarized in those minutes.)

By written communication, counsel for the tenants requested a week's continuation of this case because of new information recently discovered. As the owner's representative was in attendance, the Commissioners asked if he objected to another continuance. Since he did so object, the case was considered as scheduled.

MSC: To accept the appeal for a hearing at the Board level.
(Carrico/Alviar: 3-2; Chan and Marshall dissenting.)

B. 909 Geary Blvd. #645 [H002-01(R)]
(Continued from 12/2/86 and summarized in those minutes.)

At the request of the Executive Director, the case was continued to December 16, 1986, since efforts are being made to contact the tenant-appellant.

C. 839 Broderick Street #4 [H002-02(R)]

The tenant appealed the Hearing Officer's ruling which granted a rent increase due to certain capital improvements made by the landlord. The tenant maintains that the increase should be denied because of habitability problems in the unit. The Hearing Officer found the

objections raised by the tenant were not among those contained in Rules and Regulations Section 7.15, defense to capital improvement rent increases.

MSC: To deny the appeal, but inform the tenant of the right to file a tenant petition on the habitability issue.
(Carrico/Armstrong: 4-1;. Chan dissenting.)

D. 866 Post Street [H001-58(A)]

The landlords appealed the Hearing Officer's determination granting a rent increase due to increased operating and maintenance expenses, but not to the maximum amount allowed under the Rules and Regulations. The building was recently purchased by these landlords, who submitted a Buyer's Closing Statement rather than cancelled checks or other documentation of their increased debt service. Although the record was left open 30 days for providing additional relevant information, none was submitted. The landlords dispute the Hearing Officer's findings that they failed to meet their burden of proof, maintaining that the cancelled checks requested by the Hearing Officer were neither available nor necessary to prove their case.

MSC: To accept the appeal and remand the case to another Hearing Officer. (Chan/Carrico: 5-0.)

E. 530 Hickory [H001-59(A)]

The landlord appealed the Hearing Officer's decision on remand, granting a rent reduction due to the transfer of the costs of garbage collection and additional expenses incurred in conversion from gas to electric heat. The landlord maintains that her rental agreements assign the costs of garbage collection to the tenants, and she believes she is not responsible for the fact that the prior property managers had paid this bill. She further pointed out that the tenant had made no objection to having an electric heater, and had damaged the unit when she recently vacated.

MSC: To deny the appeal and affirm the Hearing Officer's decision. (Chan/Carrico: 5-0.)

F. 516 Ellis Street [H001-60(A)]

The landlord appealed the Hearing Officer's ruling which approved rent increases based on increased operating and maintenance expenses, but which declared past rent increases to be excessive and therefore null and void. The landlord maintains that the presence of additional occupants in the unit justifies the illegal rent increases, as well as an agreement alleged to have been reached at the inception of the tenancy.

MSC: To deny the appeal and affirm the Hearing Officer's ruling. (Carrico/Alviar: 5-0.)

G. 900 Chestnut Street [H002-03(R)]

Tenants in five units appealed the determination of the Hearing Officer
1026A

denying their petitions regarding decreased housing services, failures to repair, and improper PG&E pass-throughs. The Hearing Officer found that the service decreases were not substantial, no violations of state or local law were involved, and the tenants had failed to meet their burden of proof. The tenants allege substantial misstatements of fact and abuses of discretion were made by the Hearing Officer.

MSC: To deny the appeal and affirm the Hearing Officer's decision. (Armstrong/Carrico: 4-1; Chan dissenting.)

V. Communications

- A. Statements for and against the following appeals were received: 644 Fillmore, 839 Broderick #4, 866 Post, 530 Hickory, and 900 Chestnut. Several statements were also received for the eviction reconsideration concerning 2380 California St., # 602.
- B. The landlord's attorney for 3440 Mission Street, considered December 2, 1986, wrote to request the withdrawal of the appeal since the parties had reached a full agreement--pursuant to a stipulated court judgment--the day after the landlord filed the appeal.
- C. The tenant's attorney for the eviction matter at 2651 Bryant #2 wrote the Eviction Unit Supervisor asking that his clients' case be referred to the Commissioners for further legal action.
- D. The November 1986 statistics were distributed.
- E. A letter was distributed from a tenant thanking the Eviction Unit for its help in investigating his case, which was upheld by the court in an unlawful detainer action.

VI. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration

2380 California [G168-37(E)]

The landlords requested reconsideration of the Hearing Officer's assessment that the eviction attempt at issue was wrongful. On May 30, 1986, a termination notice was prepared for two tenants for owner-occupancy; one resident of 28 years settled and moved. The property was held by two family trusts; the evicting family member was both a beneficiary and trustee of the trusts. Although it was agreed by stipulation that the trusts were the record owner of the property, the evicting landlord maintained: as a beneficiary of the trust, she was an owner for purposes of eviction; and as the beneficial owner of the trust, her father could evict for relative [i.e., her] occupancy. She disputed the Rent Board's analysis that the trust was not a natural person with a 10% personal interest in the property and therefore could not evict for owner-occupancy.

The day before the hearing the father prepared an eviction notice for relative occupancy. At the September 4, 1986 hearing, the following
1026A

documents were submitted: ownership of the property by the family corporation, revised by two unrecorded deeds signed August 30, 1986, [recorded September 10, 1986], one combining the two family trusts controlling the property and the other granting the father a 25% personal interest, the balance remaining in trust. The evicting landlord, who works for the Department of City Planning, did not obtain permits from the Planning Department to combine two units until July 9, 1986, two months after service of the first eviction notice.

The Hearing Officer found the eviction wrongful because: there was no "natural person" record owner until the deeds were changed and recorded, some time after the first two eviction notices were served; permits from the City had not been obtained in a timely manner as the law required; the landlord did not provide convincing documentation to show why she did not choose to combine units on another floor, where a vacancy already existed in a comparable unit. In the reconsideration request the landlords argued that the Hearing Officer had not given weight to the unrecorded deeds and the later recording (received ten days after the record closed), that the earlier improper eviction notices were irrelevant, and that there was no proof offered to establish bad faith.

MSC: To deny the request for reconsideration and uphold the Hearing Officer. (Chan/Marshall: 3-2; Carrico and Armstrong dissenting.)

VII. Calendar Items

December 16, 1986

9 appeal considerations

6:30-PUBLIC HEARING--Proposed Rules Changes for Fee Increases
4 eviction cases for staff report

December 23

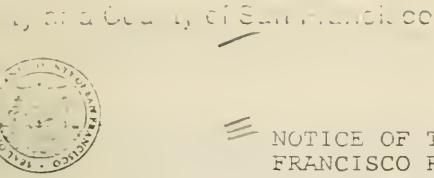
NO MEETING

December 30, 1986

NO MEETING

VIII. Adjournment

The remainder of the agenda was continued to December 16, 1986, since the building's utilities were to be shut off shortly after 6:00 p.m. Vice-President Marshall accordingly adjourned the meeting at 6:08 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

December 16, 1986

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

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- A. 909 Geary St. #645 [H2-1(R)]
(Continued from December 2 & 9, 1986)
- B. 5407 Diamond Heights Blvd. #1 [H1-61(A)]
- C. 296-98 Fair Oaks St. [H1-62(A)]
- D. 353 Scott St. #4 [H1-63(A)]
- E. 3475 16th St. #4 [H2-8(R)]
- F. 349 Cherry St. [H1-64(A)]
- G. 1536 Great Highway #1 [H1-65(A)]
- H. 197 De Haro St. [H1-66(A)]
- I. 31 Hartford St. [H1-67(A)]

- V. Public Hearing 6:30 p.m.
Proposed Changes to Rules & Regulations Section 3.10-
Amount of Fees (Per Amendments to Ordinance Section 37.8)
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

- A. 860 Sutter St. #405 [H1-70(E)]
- B. 1788 Union St. [G169-3(E)]
- C. 3323 Mission St. [H2-67(E)]
- D. 3151 Franklin St. #8 [H2-55(E)]

- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Remarks from the Public
- XIII. Adjournment

1024A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 16, 1986, at 5:30 p.m. at the State Building, 1350 McAllister St. #1158

JAN 5 1987

I. Call to Order

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Vice-President Marshall called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Armstrong; Chinchilla; Marshall.
Commissioners not Present: Alviar; Curran; How; Payne; Waller.
Staff Present: Hernandez; O'Hearn.

Commissioner Carrico appeared on the record at 5:45 p.m. and Commissioner Chan appeared at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 9, 1986 as written.
(Chinchilla/Armstrong: 3-0.)

IV. Consideration of Appeals

A. 909 Geary Blvd. #645 [H002-01(R)]
(Continued from 12/2/86 and summarized in those minutes.)

The Executive Director reported that he has been unsuccessful in contacting the tenant-appellant.

MSC: To accept the appeal and remand the case for another hearing. (Chinchilla/Armstrong: 3-0.)

B. 5407 Diamond Hts. Blvd. #1 [H001-61(A)]

The landlord appeals the Hearing Officer's decision granting a 5% rent reduction to compensate the tenants for their loss of part of their deck space.

MSC: To deny the appeal. (Chinchilla/Carrico: 3-1; Armstrong dissenting.)

C. 298 Fair Oaks St. [H001-62(A)]

The hearing officer determined that this four-unit property is not exempt from the Rent Ordinance because the owners, who spend much of their time in Ireland, do not actually occupy the property. The landlords appeal claiming that their time abroad is spent for business purposes and does not affect their continued principal residency at the property.

MSC: To accept the appeal and schedule a hearing before the Commissioners. (Chinchilla/Carrico: 4-0.)

D. 353 Scott St. #4

[H001-63(A)]

The landlord appeals the hearing officer's \$5.00/day reduction of rent for 20 days based on the accumulation of bees from a hive in the bedroom wall. The landlord claims that the problem was remedied as soon as possible.

MSC: To accept the appeal and remand the case for clarification of the length of time that the tenant did not have use of apartment and for a determination as to whether this particular situation applies within the scope of the Rent Ordinance. (Armstrong/Carrico: 3-1; Marshall dissenting.)

E. 3475 16th St. #4

[H002-08(R)]

A tenant who appeared at the hearing on this case appeals the capital improvement passthrough granted by the hearing officer. He claims that the costs were not properly apportioned since some of the items did not apply to his unit.

MSC: To deny this appeal. (Chinchilla/Armstrong: 4-0.)

F. 349 Cherry St.

[H001-64(A)]

The hearing officer granted the landlord's capital improvement petition in the amounts requested, but noted that the landlord could have received \$9.18 instead of \$6.36 if interest had been correctly calculated on the petition. The landlord appeals based on lack of notice of the appropriate formula for interest calculation.

MSF: To accept the appeal and schedule a hearing before the Commissioners. (Carrico/Armstrong: 2-2; Chinchilla and Marshall dissenting.)

There being no majority view on this appeal, even after continued consideration later on the agenda, the Board continued the matter to its next scheduled meeting.

G. 1536 Great Highway #1

[H001-65(A)]

The hearing officer granted a 25% rent reduction for two years based on a bathroom ceiling leak in this studio apartment. The landlord appeals claiming that repairs properly had been made and that the only substantial decrease occurred during four weeks when there was a large hole in the ceiling.

MSC: To accept the appeal and remand the case for consideration as to when the decrease began, i.e., when the leak re-occurred after the October 30, 1985 hearing on the landlord's increase petition. (Chinchilla/Carrico: 4-0.)

H. 197 De Haro [H001-66(A)]

The hearing officer determined that the landlord imposed excessive increases in 1983 and 1985 entitling the tenant to reimbursement of \$2,154.80. The landlord appeals contending that the Board lacks jurisdiction because the tenant maintains the premises as a business. The landlord further contends that the hearing officer failed to consider banking of allowable increases prior to 1982.

- MSF: To accept the appeal and schedule a hearing before the Commissioners. (Carrico/Armstrong: 2-2; Chinchilla and Marshall dissenting.)
- MSF: To accept the appeal and remand the case for a determination of the primary use of the unit and for clarification of the banking provisions. (Chinchilla/Marshall: 2-2; Armstrong and Carrico dissenting.)
- MSC: To reconsider the motion to accept the appeal and schedule a hearing before the Commissioners. (Chinchilla/Carrico: 4-0.)
- MSC: To accept the appeal and schedule a hearing before the Commissioners. (Chinchilla/Armstrong: 3-1; Marhsall dissenting.)

I. 31 Hartford St.

[H001-67(A)]

The hearing officer denied the tenant's petition based on lack of jurisdiction due to an owner-occupancy exemption. The tenant appeals arguing that the property is not exempt because each bedroom of a six-bedroom unit at the property is rented separately.

- MSC: To deny the appeal. (Chinchilla/Marhsall: 4-0.)

V. Public Hearing

Proposed Changes to Rules & Regulations Section 3.10
Amount of Fees (per Amendments to Ordinance Section 37.8)

There were no speakers at this hearing.

- MSC: To amend Rules & Regulations Section 3.10 effective January 1, 1987 as drafted to increase the filing fees as follows: for landlord petitions to \$20.00 per rental unit, not to exceed \$400.00 in any single case; for tenant petitions to \$15.00 per unit; and for appeals to \$15.00 per unit. (Chinchilla/Armstrong: 4-0.)

VI. Communications

A. The landlord's attorney for the eviction matter at 2651 Bryant St. #2 [Report No. G002-10(E)] wrote to the Eviction Unit Supervisor in response to the letter submitted to the Board last week from the tenant's attorney.

B. The Board received a copy of the letter to tenants from Board of Supervisors President Molinari regarding proposed eviction amendments to the Rent Ordinance.

C. A landlord who had filed a petition wrote to the Board withdrawing his petition and expressing his appreciation for the courtesy and efficiency of Board staff.

D. Mayor Feinstein wrote to the Board concerning its Management by Objectives (MBO) report.

E. The Board approved its written Decision on Appeal for 1390 Market Street [Appeal Nos. H001-48(R) through H001-83(R) heard on November 25, 1986.

F. The attorney for the landlord of 2090 Broadway Street wrote to the Commissioners requesting clarification and further decision on the appeals [Nos. H001-19(R), H001-23(R) through H001-41(R), and H001-46(R)] heard by the Commissioners on November 18, 1986 and remanded for a limited hearing before a hearing officer (scheduled on January 22, 1987). Due to the lengthy statement submitted along with a transcript of the Board's hearing, the Commissioners continued this matter to its next scheduled Board meeting.

VII. Director's Report

A. The Executive Director requested that the Board tentatively schedule a public hearing for proposed Rule changes pursuant to the proposed Rent Ordinance eviction amendments, if passed by the Board of Supervisors and signed by the Mayor. Following discussion of the proposed eviction amendments, the Commissioners requested for a future meeting (tentatively January 13, 1987) a staff report on the subject of independent counsel for the Rent Board.

B. The Director discussed the Rent Board's MBO report and noted that the Board is not expected to do as well this year because of the increased number of petitions filed.

VIII. Consideration of Allegations of Wrongful Evictions

The Eviction Unit Supervisor provided a written summary of the following cases recommending that the Board send a cautionary letter to each landlord and monitor each case.

- | | |
|------------------------|--------------|
| A. 860 Sutter St. #405 | [H001-70(E)] |
| B. 1788 Union St. | [G169-03(E)] |
| C. 3323 Mission St. | [H002-67(E)] |

MSC: To adopt the recommendations for these cases.
(Chinchilla/Armstrong: 4-0.)

By written addendum, the Eviction Unit Supervisor also reported on the following case strongly recommending referral to the District Attorney for investigation and possible prosecution of the general partner and limited partner owners, as well as for a determination of whether their attorney had knowledge of the superseding deed.

D. 3151 Franklin St. #8 [H002-55(E)]

MSC: To refer this case to the District Attorney.
(Chinchilla/Armstrong: 4-0.)

IX. Calendar Items

December 23, 1986 NO MEETING

December 30, 1986 NO MEETING

January 6, 1987

Appeal Hearing: 197 De Haro (H001-66(A) accepted 12/16/86)
9 appeal considerations (including 349 Cherry St. from 12/16/86)

January 13, 1987

Appeal Hearing: 298 Fair Oaks St. (H001-62(A) accepted 12/16/86)
Old Business: (1) Staff report on eviction procedures (per
11/18/86 meeting request); (2) Staff report on independent counsel
for the Board (per 12/16/86 meeting request)

January 20, 1986

Community Forum or Public Hearing on eviction amendments and
appeal hearing on 644 Fillmore St. (H001-52(A) accepted 12/9/86)

X. Adjournment

Vice-President Marshall adjourned the meeting at 7:45 p.m.

